



REPORT TO THE PLANNING COMMISSION

CITY COUNCIL CHAMBERS, 3300 CAPITOL AVENUE, FREMONT CA 94538

General Order of Business

1. Preliminary (Call to Order – 7:00 p.m.,
Salute to the Flag, Roll Call, Approval of
Minutes)
2. Consent Calendar
3. Oral Communications
4. Public Hearing Items
5. Matters of Interest
6. Adjournment



Addressing the Planning Commission

Any member of the public may speak on any item under discussion by the Planning Commission after “being recognized” by the Chairperson. To speak, walk to the rostrum directly in front of the Commission and, after the Chairperson recognizes you, state your name and address. Generally, after the Chairperson introduces an item, the order of presentation begins with comments by staff. The project applicant or their authorized representative may then comment. Next, interested members of the public may speak. Additional comments by the applicant or staff, as appropriate, may follow. At the close of testimony, the matter will return to the Planning Commission for discussion and action. Any item not introduced prior to 11:00 p.m. will automatically be “continued,” or held over, to the next regularly scheduled Planning Commission meeting.

Consent Calendar

Items on the Consent Calendar are scheduled public hearing items which are considered routine by the Planning Commission. The Consent items will be enacted by one motion and one vote and include the following:

- Items recommended for continuance to a later meeting.
- Items for which staff has received no indication of public concern and for which staff is recommending approval.
- Items which have been moved from the regular hearing agenda and placed on the Consent Calendar at the beginning of any particular meeting.

Items on the Consent Calendar may be removed by any member of the public or Planning Commission. If removed from the Consent Calendar, the item will be placed on the regular hearing agenda in its normal sequence on the agenda. When the Planning Commission approves a consent item, it approves the staff recommendation together with any conditions of approval included in the recommendation.

Please note that items on the regular hearing agenda may be placed on the Consent Calendar at the beginning of any particular meeting when requested by a member of the Planning Commission and with the approval of the Chairperson. If a Planning Commissioner requests that an item be moved from the regular hearing agenda and placed on the Consent Calendar, the Chairperson will ask if anyone in the audience or any other Commissioner wishes to speak to the item or have the item heard. If no one wishes to do so, the Chairperson may move the item to the Consent Calendar and it will be considered at that time. Accordingly, anyone wishing to speak to an item should be present at the beginning of the meeting.

Oral Communications

Any member of the public desiring to speak on a matter which is not scheduled on this agenda may do so under Oral Communications. As a matter of policy, the Planning Commission does not take immediate action on items presented under Oral Communications.

General Information

The Planning Commission usually meets on the 2nd, 3rd, and 4th Thursday of each month. [Exceptions: Only one meeting in August 27, November 12, and December 10.] Commission meetings are held in the City Council Chambers at 3300 Capitol Avenue.

Stenocaptioning and/or earphones for people who are hearing impaired are available from the Recording Clerk 15 minutes prior to the meeting. A driver's license will be held as a deposit. Commission meetings are open captioned for the deaf in the Council Chambers and closed captioned for home viewing. Assistance will be provided to those requiring accommodations for disabilities in compliance with the Americans with Disabilities Act of 1990. Interested persons must request the accommodation at least 2 working days in advance of the meeting by contacting the Planning Department at (510) 494-4440. Planning Commission meetings are open captioned for the deaf in the Council Chambers and closed captioned for home viewing. For more information on Planning Commission please visit our website at <http://www.fremont.gov/Construction/PlanningCommission/default.htm> or contact the Planning Department at (510) 494-4440.

The regular meetings of the Fremont Planning Commission are broadcast on Cable Television Channel 27.

Availability of Public Records

All disclosable public records relating to an open session item on this agenda that are distributed by the City to all or a majority of the Historical Architectural Review Board less than 72 hours prior to the meeting will be available for public inspection at 39550 Liberty Street during normal business hours, at the time the records are distributed to the Planning Commission.

Copies of staff report are available at the Development Services Center at 39550 Liberty Street (between Stevenson Blvd. and Walnut Ave.) and at City Hall at 3300 Capitol Avenue the week of the meeting and are free of charge. Plans and other supporting documents may be viewed any day until noon the day of the Planning Commission meeting. Copies will be provided at cost when feasible. The Development Services Center is open 8 a.m. to 4 p.m., Mondays through Thursdays; and 8 a.m. to 12 p.m., Fridays.

Planning Commission final agendas, which include location maps, staff reports and proximity maps can also be viewed on the Internet at <http://www.fremont.gov/CityHall/PlanningMeetings/default.htm>.

The Planning Commission meetings are now also live over the Internet. Please note: Live webcasts are only available when the Planning Commission is in session. If the Planning Commission is not in session, the web browser will return a "busy" error.

To send an e-mail message to all of your Planning Commissioners send your message to:
planning_commission@fremont.gov

To leave a voice message for any of the Planning Commissioners, dial the numbers listed below:

David Bonaccorsi:	494-4895 *4998
Yogi Chugh:	494-4895 *4992
Richard King:	494-4895 *4995
Dirk Lorenz:	494-4895 *4997
Daniel Lydon:	494-4895 *4993
Dr. Rakesh Sharma:	494-4895 *4994

We appreciate your interest in the conduct of your City's business. Information about the City or the items discussed in this report may be referred to:

Planning Commission Secretary
City of Fremont Planning Division
39550 Liberty Street, P.O. Box 5006
Fremont, CA 94537-5006
Telephone: 510-494-4440

Planning Commissioners

Richard King, Chairperson
Dr. Rakesh Sharma, Vice Chairperson
David Bonaccorsi
Yogi Chugh
Dirk Lorenz
Daniel Lydon

City Staff

Jeff Schwob/Wayne Morris, Planning Commission Secretaries
Joan Borger, Assistant City Attorney
Scott Rennie, Senior Deputy City Attorney
Alice Malotte, Recording Clerk

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AGENDA

FREMONT PLANNING COMMISSION MEETING, JANUARY 8, 2009 COUNCIL CHAMBERS, CITY HALL, 7:00 P.M.

1. PRELIMINARY

- 1.1 CALL TO ORDER
- 1.2 SALUTE TO THE FLAG
- 1.3 ROLL CALL
- 1.4 APPROVAL OF MINUTES – None
- 1.5 DISCLOSURES

2. CONSENT CALENDAR:

NOTICE: ITEMS ON THE PUBLIC HEARING CALENDAR MAY BE MOVED TO THE CONSENT CALENDAR IF NO ONE IS PRESENT TO SPEAK ON THE ITEMS. ALL APPLICANTS AND INTERESTED PERSONS ARE ADVISED TO BE PRESENT AT THE START OF THE MEETING.

Item 2. CREEKSIDE LANDING RETAIL - FREMONT BOULEVARD/DIXON LANDING/I-880 - (PLN2008-00117) - to consider a Conditional Use Permit, Vesting Tentative Tract Map 7994 with a minor modification, and Preliminary Grading Plan for development of a 487,000 square regional shopping center on 59 acres of a 147-acre site located at the southern terminus of Fremont Boulevard, north of the Dixon Landing interchange and west of Interstate 880 in the Industrial Planning Area. An Environmental Impact Report (EIR) has been prepared and circulated for this project pursuant to the California Environmental Quality Act. Project Planner - Cliff Nguyen, (510) 494-4769, cnguyen@fremont.gov

Recommended Continue to a date uncertain.
Action:

Item 4. INKIES TATTOO SALON CUP - 37485 FREMONT BOULEVARD - (PLN2009-00081) - to consider a Conditional Use Permit to allow a tattoo salon within a 1,300 square foot tenant space located in the Centerville Planning Area. This project is categorically exempt per California Environmental Quality Act Guideline 15301, Existing Facilities. Project Planner - Spencer Shafsky, (510) 494-4452, sshafsky@fremont.gov

Recommended Approve, based on findings and subject to conditions.
Action:

Item 5. SUMMERHILL TRACT EXTENSION (VTM 7836) - 3651 WALNUT AVENUE - (PLN2009-00129) - to consider an extension in time for a previously approved Vesting Tentative Tract Map (VTM 7836) to subdivide a 4.31 acre parcel into two lots for a mixed use development in the Central Business District. A

Mitigated Negative Declaration was previously circulated and adopted for the original project.

Project Planner - Susan Summerford, (510) 494-4543, ssummerford@fremont.gov

Recommended Approve, subject to original findings and conditions.
Action:

3. PUBLIC/ORAL COMMUNICATIONS

4. PUBLIC HEARING ITEMS

- Item 1. HASTINGS STREET MIXED-USE PROJECT - HASTINGS STREET - (PLN2008-00177)** - to consider a Rezoning from Central Business District to Preliminary and Precise Planned District P-2008-177, Tentative Tract Map 7996 to create twelve (12) residential condominiums, twelve (12) office condominiums, and seven (7) commercial condominiums and a Preliminary Grading Plan for a 4-story mixed-use development on a vacant 0.82-acre lot in the Central Planning Area. A Mitigated Negative Declaration has been prepared and circulated in accordance with the requirements of the California Environmental Quality Act.
Project Planner - Steve Kowalski, (510) 494-4532, skowalski@fremont.gov

Recommended Recommend to City Council.
Action:

- Item 3. ST. CHRISTINA MISSION CUP - 3721 PARISH AVENUE - (PLN2009-00070)** - to consider a Conditional Use Permit to allow a religious facility within a vacant 3,080 square foot building (a potential register resource) located in the Centerville Planning Area. The project is categorically exempt pursuant to California Environmental Quality Act Guidelines 15301, Minor Alterations of an Existing Facility and 15331, Historic Resource Renovation/Rehabilitation.
Project Planner - Steve Kowalski, (510) 494-4532, skowalski@fremont.gov

Recommended Approve, based on findings and subject to conditions.
Action:

5. MISCELLANEOUS ITEMS

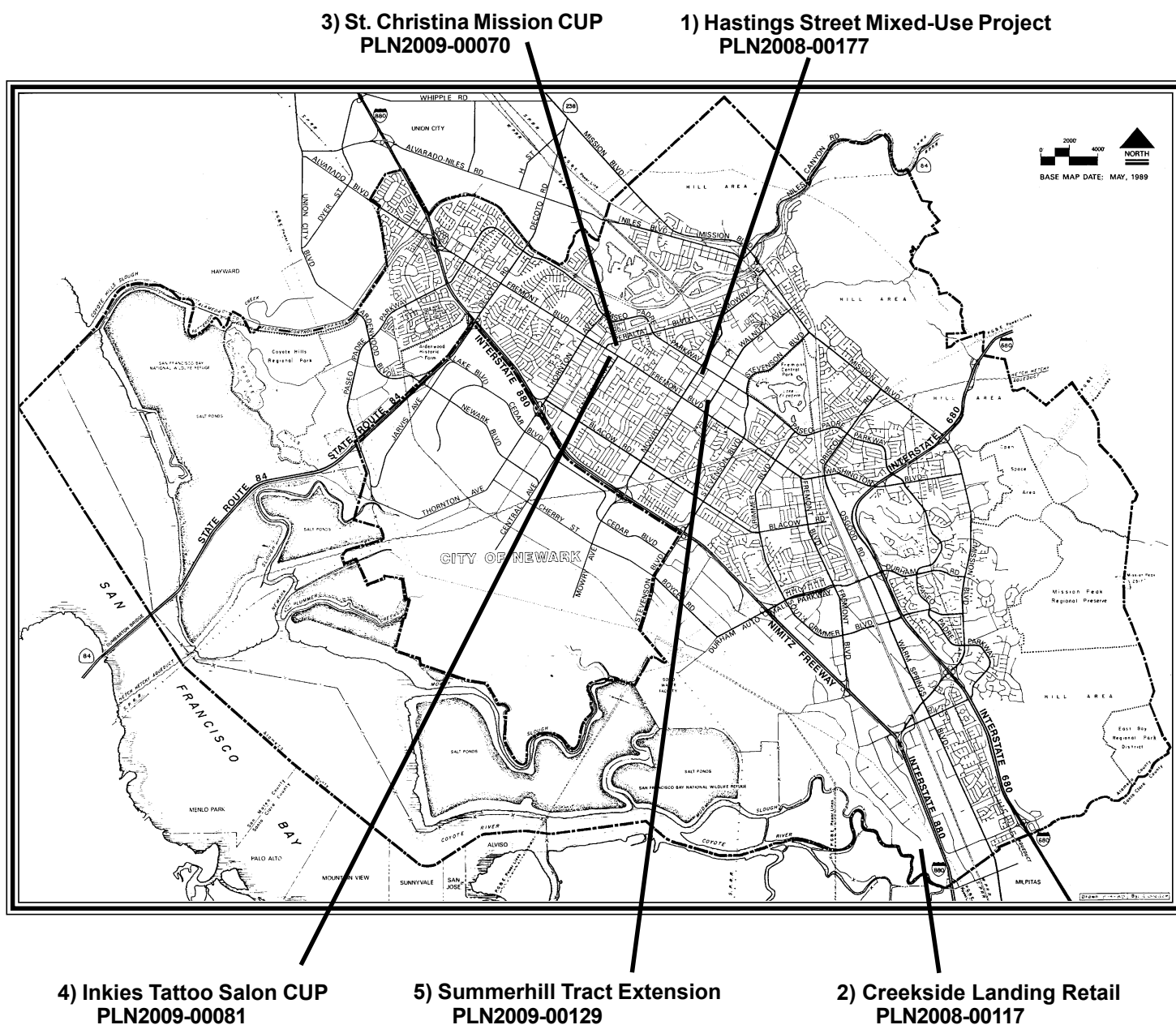
Information from Commission and Staff:

- Information from staff: Staff will report on matters of interest.
 - Report on actions of City Council Regular Meeting
 - Election of Chairperson and Vice Chairperson
- Information from Commission: Commission members may report on matters of interest.

6. ADJOURNMENT

Proximity Map

This map shows the general location of projects (by file number) which are scheduled for Planning Commission consideration.



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PLANNING COMMISSION STAFF REPORT JANUARY 8, 2009

Project:	HASTINGS STREET MIXED-USE PROJECT (PLN2008-00177)
Proposal:	To consider a Rezoning from Central Business District (C-B-D) to Preliminary and Precise Planned District (P-2008-177), Tentative Tract Map 7996 to create 12 residential condominiums, 12 office condominiums, and 6 commercial condominiums, a Preliminary Grading Plan, and a Mitigated Negative Declaration for a 4-story mixed-use development.
Recommendation:	Recommend to City Council
Location:	NE corner of Hastings St. and Capitol Ave. in the Central Planning Area APN: 501-1130-053-00 (See aerial photo on next page)
Lot Size:	0.82 acres (\pm 35,763 square feet)
People:	Hastings Medical Association (contact: Dharam Salwan), property owner BKBC Architects, Inc. (contact: Sanjiv Bhandari), applicant/architect Steve Kowalski, Staff Planner, (510) 494-4532; skowalski@fremont.gov
Environmental Review:	A mitigated negative declaration has been prepared and circulated for this project in accordance with the California Environmental Quality Act.
General Plan:	Central Business District
Current Zoning:	C-B-D, Central Business District
Proposed Zoning:	P-2008-177, Preliminary and Precise Planned District

EXECUTIVE SUMMARY:

The applicant is proposing to construct a four-story mixed-use building on a vacant 0.82-acre lot located at the corner of Hastings Street and Capitol Avenue in the Central Planning Area. The building will feature up to six (6) ground-floor retail spaces, up to twelve (12) second-floor medical office suites, and twelve (12) two-story residential condominiums on the third and fourth floors. A two-level underground parking garage will be constructed beneath the building with driveway access provided off Hastings Street. On December 11, 2008 the Planning Commission reviewed the proposal and directed the applicant to make various revisions to the building's architecture, floor plan and colors/materials palette. The applicant has worked with staff since that time to revise the plans, and staff feels that the revisions are consistent with the Commission's instructions*. Staff recommends that the Commission recommend the City Council approve the requested entitlements and Mitigated Negative Declaration based on the findings and subject to the conditions of approval contained in Exhibit "F", attached.

* The aspects of the project and the portions of the staff report that have been changed since the December 11, 2008 hearing are underlined throughout the staff report for the reader's convenience.

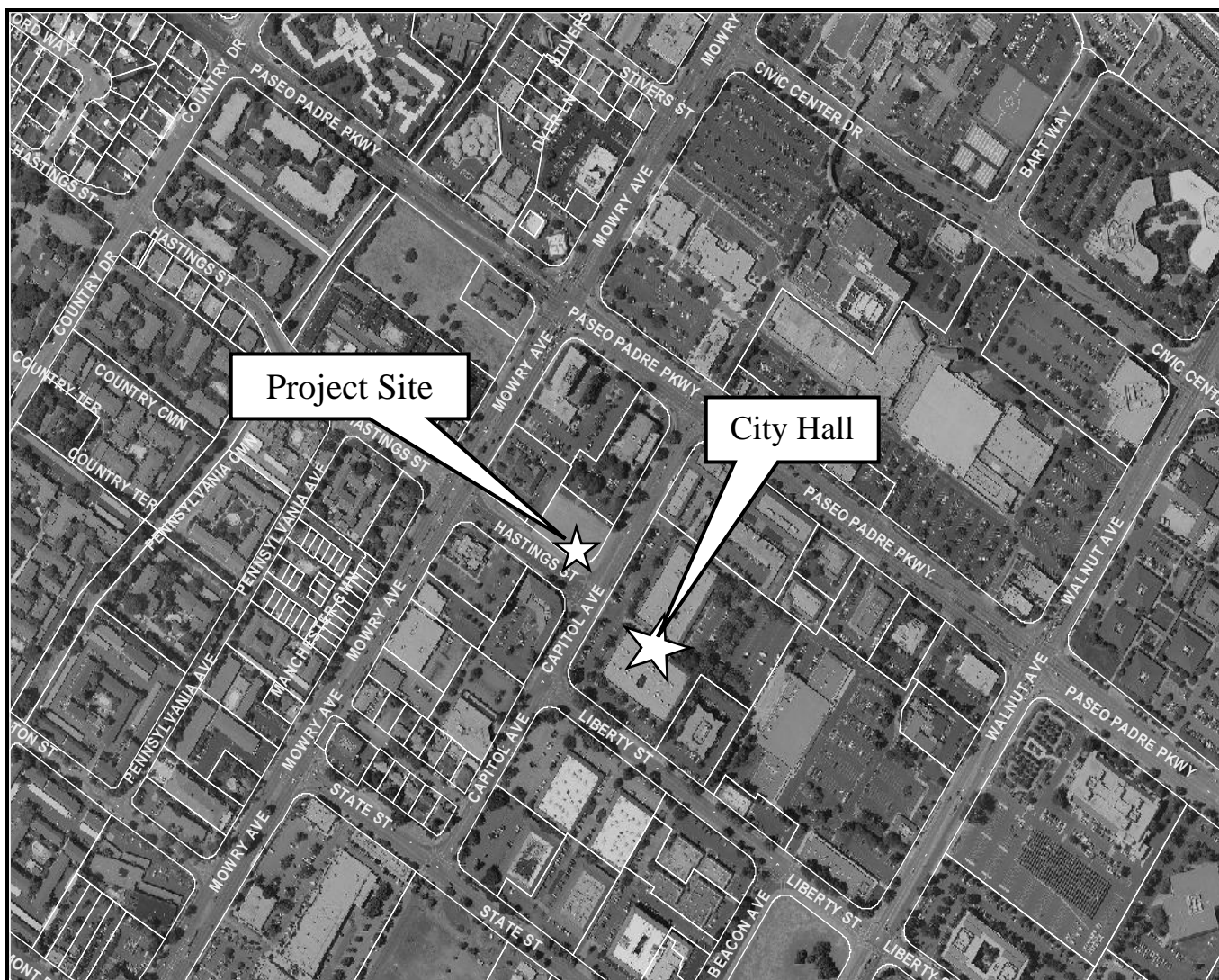


Figure 1: Aerial Photo (2006) of Project Site and Surrounding Area.



SURROUNDING LAND USES:

North: Medical/professional offices (C-B-D zone)
 South: Medical/professional offices (C-B-D zone)
 East: Fremont City Hall complex, medical/professional offices (C-B-D zone)
 West: Restaurant, commercial development (C-B-D zone)

BACKGROUND AND PREVIOUS ACTIONS:

The subject property was created as part of Parcel Map 5395 which was recorded in 1988. This parcel map included a joint-use parking agreement with the parcel immediately to the north/northeast at the corner of Capitol Avenue and Paseo Padre Parkway. On November 8, 2001, the Planning Commission approved a Finding for Site Plan and Architectural Review and a Preliminary Grading Plan for a 4-story hotel with ground-floor retail space at the site (Hampton Inn - PLN2001-00362). On December 4, 2001, the City Council approved a Floor Area Ratio increase for the same project. For economic reasons, the hotel project was never built and the property was subsequently purchased by the Hastings Medical Association, the sponsor of this application.

On December 11, 2008 the Planning Commission reviewed the proposal and directed the applicant to make various revisions to the building's architecture, floor plan and colors/materials palette. The applicant has worked with staff since that time to revise the plans in accordance with the Commission's directions. These changes are discussed in the *Architecture/Design* section below.

PROJECT DESCRIPTION:

The applicant is proposing to construct a 4-story mixed-use building with up to six ground-floor retail commercial tenant spaces, up to twelve second-floor medical office suites, and twelve two-story residential condominiums on the third and fourth floors. The subject parcel is currently vacant and measures 35,763 square feet, or 0.82 acres in size. The gross floor area of the proposed building has been reduced to 66,348 square feet, with the ground floor measuring 17,783 square feet, the second floor measuring 21,965 square feet, and the two residential floors measuring a combined 26,600 square feet. The retail spaces will range in size from $\pm 1,700$ to $\pm 2,900$ square feet, while the medical offices will range from $\pm 1,125$ to $\pm 2,000$ square feet and the residential units from $\pm 1,450$ to $\pm 2,630$ square feet. All of the units in the building, including the commercial spaces on the ground floor, are intended to be sold individually. A condition of approval has been included limiting the total number of units created by the subdivision to thirty (30).

A two-level underground parking garage will be constructed beneath the building. The parking garage will contain 104 parking spaces, 24 of which will be reserved for residents of the condominium units, and the other 80 of which will be available for use by employees and patrons of the retail and medical office spaces. Four motorcycle spaces will also be provided on the first level of the garage. Two separate elevators will provide access from the garage to street level and the upper floors. The plan features 56 surface parking spaces, eleven of which are located on site at the side and rear of the building, and 27 of which will be shared with the property immediately to the northeast through an existing parking agreement already recorded on the title of both properties. Another 18 on-street spaces will be provided along Hastings Street and Capitol Avenue immediately adjacent to the project site.

The ground floor is expected to contain a mix of retail, personal service and restaurant uses occupying the five tenant spaces facing the sidewalk, as well as either a medical-affiliated use such as a pharmacy or laboratory or a professional office in the sixth interior space at the back of the building. The dividing walls shown on the floor plan in Exhibit "C" are only conceptual in nature and may be adjusted to meet the needs of the individual tenants. The medical suites are intended to be complimentary to each other

and capable of providing coordinated, comprehensive care in a single location for the convenience of the patients similar to a hospital or medical campus environment (see Informational Item #2).

PROJECT ANALYSIS:

General Plan Conformance

The General Plan land use designation for the project site is Central Business District. This land use designation is intended to provide for a mix of land uses including retail, service, office, government and cultural uses in a compact, well-defined area to encourage a lively, pedestrian-friendly environment in the city's center as opposed to an office district that is only busy during the workweek and depopulated on evenings and weekends. The following General Plan Land Use and Local Economy goals, objectives and policies are applicable to the proposed project:

- **Fundamental Land Use Goal F5** – *A vibrant, well-defined, visually distinctive central business district as the focus of the City's governmental, cultural, and commercial activity.*
- **Land Use Policy 2.7** – *Site design and building development in the Central Business District shall be oriented toward pedestrians and transit. To maintain an active pedestrian environment, buildings oriented towards streets, sidewalks or public plazas shall be strongly encouraged. Retail uses shall be encouraged at the ground level. Building orientation, setbacks, parking locations and building design shall be evaluated for how each element encourages continuity between developments.*
- **Land Use Policy 2.8** – *Central Business District developments shall provide safe, convenient and continuous pedestrian walkways linking building entrances to street sidewalks, crossings, and linking building entrances to adjacent building entrances, activity centers and transit, as illustrated in the Central Business District's Central Area Conceptual Pedestrian Connection Plan.*
- **Local Economy Objective LE 3.4** – *Higher intensity commercial uses near CBD and Irvington BART stations.*
- **Local Economy Policy LE 3.4.1** – *Permit the highest intensity of commercial use (including hotels) in the CBD within convenient walking distance of the Fremont BART station.*

Analysis

The proposal features a pedestrian-friendly design with storefronts opening out onto wide sidewalks, parking located underground and to the rear of the building, and landscaped bulb-outs designed to calm traffic on the adjacent streets. The development will have retail and restaurant uses on the ground floor, which will help enliven the street, and the residential units will ensure that there is a 24-hour presence in the area. The site is located approximately ½ mile from the Fremont BART station and numerous Alameda County Transit bus lines run past the area on Mowry Avenue and Paseo Padre Parkway, and office development abuts the project on all sides; therefore, public transportation and walking provide reasonable transportation alternatives to the site. Finally, the proposal features a Floor Area Ratio (FAR) of 1.85 to maximize the use of the land, slightly under the maximum 2.0 FAR allowed by the Zoning Ordinance for projects located in the CBD within ½ mile of BART.

Central Business District Concept Plan Conformance

In November 2001, the City Council adopted the Central Business District Concept Plan in an effort to encourage new developments in the CBD to be pedestrian-scaled in order to create a vibrant city center containing a mix of uses designed to generate round-the-clock activity in the area. Primary concepts put forth by the plan include the creation of a pedestrian friendly Main Street-style streetscape along Capitol Avenue with wide sidewalks, street trees and furniture, the provision of retail uses on ground floors of buildings having little or no setbacks, and allowing parking reductions and the provision of on-street and structured parking to reduce the need for large amounts of on-site parking at each development and help calm traffic throughout the area.

The project conforms to the CBD Concept Plan by providing a mix of uses that will increase activity in the area by providing retail, restaurant and service uses on the ground floor and residential units above. The building features zero setbacks along both street frontages, and the developer will construct extra-wide sidewalks with large-canopy shade trees, decorative paving and street furniture. Angled on-street parking will also be provided along both street frontages to separate the sidewalk from vehicular traffic and reduce traffic speeds adjacent to the site. The project also features an underground parking garage to further reduce the amount of surface-level site area needed for parking. In order to ensure that the uses occupying the building will contribute to a pedestrian-oriented environment, conditions of approval have been included limiting the ground floor spaces to those uses permitted in the C-B-D zone, and requiring the developer to seek out a restaurant use for the primary tenant space at the corner for a minimum 1-year period. Office uses will be prohibited on the ground floor except in the space at the rear of the building to further encourage occupancy of the spaces by businesses that cater to pedestrian traffic such as restaurants and retail shops.

Zoning Analysis

The subject property is zoned Central Business District (C-B-D), and mixed-use developments may be considered in the C-B-D zone subject to approval of a Planned District rezoning by the City Council. In addition to the establishment of a Planned District, the applicant is requesting approval of a tentative tract map to create 6 commercial spaces, 12 residential condominiums and 12 office condominiums, as well as a preliminary grading plan to allow the excavation of approximately 12,675 cubic yards of earth to accommodate the underground parking garage.

Rezoning to Establish a New Planned District:

Pursuant to Section 8-21813 of the Municipal Code, the Planning Commission may recommend that the City Council adopt an ordinance establishing a new Planned District (or P district) if the following findings can be made:

- (a) The proposed P district, or a given unit thereof, can be substantially completed within four years of the establishment of the P district;
- (b) Each individual unit of development, as well as the total development, can exist as an independent unit capable of creating an environment of sustained desirability and stability or that adequate assurance will be provided that such objective will be attained; the uses proposed will not be

detrimental to present and potential surrounding uses, but will have a beneficial effect which could not be achieved under other zoning districts;

- (c) The streets and thoroughfares proposed are suitable and adequate to carry anticipated traffic, and increased densities will not generate traffic in such amounts as to overload the street network outside the P district;
- (d) Any proposed commercial development can be justified economically at the location(s) proposed to provide for adequate commercial facilities of the types proposed;
- (e) Any exception from standard ordinance requirements is warranted by the design and amenities incorporated in the precise site plan, in accord with adopted policy of the Planning Commission and City Council;
- (f) The area surrounding said development can be planned and zoned in coordination and substantial compatibility with the proposed development;
- (g) The P district is in conformance with the General Plan of the City of Fremont; and
- (h) Existing or proposed utility services are adequate for the population densities proposed.

It is staff's opinion that the above findings can be made for the following reasons. If the project is approved, the applicant expects construction to commence in the summer of 2009 and be completed in 2011, well within 4 years of the approval date of the Planned District. The project will not be detrimental to the surrounding uses or impair their ability to be planned in coordination with the project in that it will be designed and improved to provide for connectivity to the adjacent parcels both via internal circulation routes and through the provision of new public right-of-way improvements and street lane striping. In addition, the project will be able to function on its own in that it will feature a mix of uses that not only cater to patrons visiting the site, but also to the residents and medical office employees who will occupy the upper floors; therefore, the project will generate round-the-clock activity at the site.

In addition, the uses proposed will not be detrimental to present and potential surrounding uses, but will have a beneficial effect which could not be achieved under other zoning districts in that the mix of residential, office and commercial uses all at one site will generate a steady level of activity in the area that could have spillover benefits for nearby commercial developments. The proposed commercial component can also be justified at the location in that it will provide convenient retail and personal service options for the residents and the owners of the medical suites on the upper floors and reduce the need to drive off-site to obtain certain goods and services.

A traffic study was conducted for the project by Hexagon Transportation Consultants, Inc. in June 2008 which found that the proposal will not have a significant impact on the surrounding street network. The applicant is requesting a 23-space parking reduction, or 14% of the parking required by the Zoning Ordinance. However, it is staff's opinion that the requested reduction is warranted in this case because the project is consistent with numerous policies contained in the Central Business District Concept Plan and Mixed-Use Development Ordinance that encourage allowing parking reductions in that it provides both structured and on-street parking, a pedestrian-friendly design with zero setbacks, wide sidewalks

and surface parking to the rear of the site, a mix of uses that will not all have overlapping peak business hours, and access to various forms of public transportation.

In addition, the project area is also already served by existing utilities, including domestic water and sewer systems that according to the local utility service providers are capable of supporting the proposed development. Finally, the proposal is consistent with the General Plan and Central Business District Concept Plan in that it will provide a mix of uses and bring new permanent residents downtown, which will help increase activity in the area in the evenings and on weekends.

Tentative Tract Map:

Pursuant to Section 8-1418 of the Fremont Municipal Code (FMC), the decision-making body has the authority to approve a Tentative Tract Map if it can make all of the following findings:

- a. The map meets or performs all of the requirements or conditions imposed by the Subdivision Map Act and Chapter 1 of the Zoning Code (Subdivisions);
- b. The proposed subdivision, together with the provisions for its design and improvements, is consistent with applicable general and specific plans;
- c. The site is physically suitable for the type or proposed density of development;
- d. The design of the subdivision or the proposed improvements is not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat;
- e. The design of the subdivision or the type or improvements is not likely to cause serious public health problems; and
- f. The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision.

It is staff's opinion that the proposed tentative map satisfies the procedural requirements and conditions of the Subdivision Map Act and Subdivisions Chapter of the Zoning Code, while also being consistent with the General Plan land use designation and the Central Business District Concept Plan in that it features a mix of land uses that will help to increase overall activity levels in the downtown area. The site is also well suited for the proposed density in that it is situated in the heart of the central business district on the corridor which is slated to become the primary downtown street in the CBD Concept Plan.

In addition, the subdivision has been designed in a manner which maximizes the use of the land while still being compatible with the surrounding land uses in that it maximizes the allowable floor area ratio to develop the site to its fullest potential without overwhelming adjacent buildings, and is designed to connect to the adjacent properties via existing and proposed driveways and parking lot drive aisles. The subdivision will not block or otherwise interfere with any existing public easements, and will benefit the neighborhood by installing new, pedestrian-friendly street improvements along both the Hastings and Capitol street frontages and re-striping existing traffic lanes on the two streets to conform to the new improvements. The adoption of the Mitigated Negative Declaration for the Planned District by the City Council will ensure that the project does not have an adverse impact on the environment or the

surrounding neighborhood and public improvements, and the environmental impact analysis concluded that no fish or wildlife habitat or other natural resources would be impacted by the proposal.

Preliminary Grading Plan:

In accordance with Section 8-4109 of the FMC, the reviewing agency must make the following findings in order to approve a Preliminary Grading Plan:

- a. The proposed project will not have an appearance, due to the proposed grading, excavation, or fill, that is substantially and negatively different from the existing natural appearance;
- b. The proposed project will not result in geologic or topographic instability on or near the site;
- c. The proposed project will not endanger public sewers, storm drains, watercourses, streets, street improvements, or other property; will not interfere with existing drainage courses, and will not result in debris being deposited on any public way;
- d. The proposed project will conform, where applicable, to special concerns relating to the adopted seismic safety element and concerns shown on maps issued by the U.S. Geological Survey and the California Division of Mines and Geology; supplemental data and substantiation of conclusions may be required by the Public Works Director upon city review of the reports; and
- e. The proposed project will not unacceptably affect the health, safety or welfare of adjacent residents and property owners, nor the citizens of Fremont.

The reason a preliminary grading plan is required for the project is due to the amount of excavation that must occur to accommodate the underground parking garage (approximately 12,675 cubic yards). When the project is completed, it will be situated on the same grade as the adjacent properties; the elevation of the finished ground floor will be no higher or lower than that of the adjacent buildings. A geotechnical study was conducted as part of the environmental impact analysis for the project which found that development of the site with the proper foundation construction and shoring techniques implemented during excavation of the garage will not result in geologic instability on or adjacent to the property. The Engineering Division has also reviewed the grading plan and placed conditions on the project to ensure that the development does not damage existing infrastructure or pose a safety hazard to the adjacent properties. In light of these facts, staff does not believe that the project will adversely impact the public health, safety or welfare.

Consistency with Mixed-Use Development Standards:

The following sections analyze the proposed project for compliance with the City's Mixed-Use Development Ordinance, Section 8-22148.7 of the Municipal Code.

In evaluating a mixed-use development for compliance with the Mixed-use ordinance, the decision-making body must make the following findings:

- 1) Community integration: The development integrates into the existing community and creates an appropriate internal and external human scale, providing for pedestrian comfort and amenities;

- 2) **Building and site layout:** The building and site layout is adaptable and would permit future changes in land use over time. Each use is designed and positioned to achieve its maximum potential so that it performs as a whole and benefits from one another. An efficiently functioning infrastructure (i.e., parking, services, utilities, and effective mechanical, electrical, and structural systems) is incorporated in the design of the development capable of servicing each component of the development's differing demands.
- 3) **Land uses:** The land uses provided by the development are compatible with one another and with the adjacent neighborhood. The commercial uses are those which would serve the residents of the development and the neighborhood. In addition, the project includes amenities and attractions that cannot be provided in single-purpose projects, such as interesting people-oriented spaces and a public realm that can capitalize on the synergy of diverse uses.
- 4) **Pedestrian-orientation:** The development is able to provide safe and well-organized pedestrian access within the site and to relevant adjacent areas. All portions of the development are accessible by a direct, convenient, attractive, and comfortable system of pedestrian facilities.
- 5) **Open and Public Spaces:** The development provides usable public and private open space, enhances the vitality of existing commercial activity, and recognizes and responds appropriately to adjacent existing or planned public spaces (e.g., parks, civic buildings, transit stops, sidewalks, plazas, and similar spaces).
- 6) **Parking:** The development minimizes the amount of land developed as surface parking including implementing measures which reduce the overall amount of parking needed for the development, such as but not limited to, joint-use parking and access to public transit. Parking areas have been located where they can be conveniently and safely accessed and without difficulty from the street and within the development. On-site parking areas are designed in such a way that they do not dominate street frontage or interfere with pedestrian areas. In addition, on-street parking is located in proximity to the retail component of the development.

Community Integration: The proposal will be the first mixed-use development of its kind in the core of the central business district, but it has been designed in accordance with the CBD Concept Plan and will integrate well into the streetscape envisioned by the Concept Plan when adjacent properties are redeveloped in a similar fashion. There is no maximum building height limit in the C-B-D zone, but the proposal features a 4-story structure similar in height and scale to the other taller buildings in the immediate vicinity. Wide sidewalks are also provided which will ultimately tie in with a new sidewalk network designed to create a more pedestrian-friendly streetscape complete with shade trees, street furniture and bike racks.

Building & Site Layout: In an attempt to foster a pedestrian-scale environment with buildings situated up against sidewalks and parking hidden from view, the C-B-D zone does not require building setbacks. The proposal features zero setbacks along both street frontages, with only enough of a rear setback to accommodate pedestrian walkways, parking for the rear-most commercial tenant space, and the emergency vehicle access easement required by the Fire Code. Parking is tucked under the building and to the rear of the site. Each residential unit will share elevator and stair access from a ground-floor residential lobby in the northern corner of the building, as well as from the bottom level of the parking

garage where the reserved parking for residents will be provided. The medical offices will also share a separate lobby and have elevator and stair access from the garage. Therefore, owners of the residences and medical suites need only take an elevator or staircase to the ground floor in order to patronize the commercial uses on the street level. A trash chute is also provided from the second and third floors for the convenience of the occupants.

The ground floor tenant spaces have been designed to be easily convertible from one commercial use to another, and 15-foot high ceilings are provided in each of the spaces fronting the two streets with extra room and vertical shafts leading to the roof to accommodate venting and other ductwork needed for restaurant uses. Each of the spaces has at least 30 feet of street frontage, and all but one have an average depth of more than 50 feet consistent with the minimum dimensions prescribed by the Mixed-Use Ordinance.

Land Uses: The intent of the Mixed-Use Ordinance is to allow a mix of complimentary land uses in close proximity to each other, including retail, services and residential, to discourage driving and create a more pedestrian-friendly environment. The proposed project includes a variety of retail, service and restaurant uses on the first floor, medical offices on the second floor, and residential units on the top two floors. Retail and service commercial uses will be limited to those permitted in the C-B-D zone, while office uses will be limited to the second floor and the rear-most ground-floor commercial space only. The uses will provide a convenient array of goods and services not only for the owners of the condominiums and medical suites, but also for people working in nearby offices that are within walking distance of the site. As such, the proposal complies with the land use standards of the ordinance.

Pedestrian Orientation: The Mixed-Use Ordinance's design criteria require street frontages and pedestrian access to be clearly defined and buildings to be built to property lines (back of sidewalk) or other publicly accessible areas. The applicant has located the building up against the sidewalks on both streets and included wide sidewalks with bulb-outs and angled on-street parking to slow vehicular traffic and create a safer environment for pedestrians. Storefront entrances will open onto both sidewalks, and areas for outdoor seating will be made available in front of spaces that may be occupied by restaurants. Street tree planters are proposed along both street frontages to enhance the streetscape and provide shade for pedestrians and storefronts, and street furniture and lighting will be provided near the street corner to the satisfaction of the City's Landscape Architect.

Open and Public Spaces: Because the applicant is proposing a Floor Area Ratio of 1.85 on a relatively small lot (0.82 acres) in the center of the central business district, there is little room for significant public open space on site. However, the plans feature 14-foot wide sidewalks capable of accommodating outdoor seating and a large bulb-out at the street corner that will feature decorative paving, shade trees and street furniture. In addition, each residential unit in the building will have a private balcony overlooking the street and/or parking lot which will help further increase safety and provide occupants with opportunities for passive outdoor recreation.

Parking: The proposed mix of land uses requires a total of 169 parking spaces, 97 for the medical offices [1 space per 200 sq. ft., (19,317 sq. ft./200 sq. ft. = 97)], 48 for the retail uses [1 space per 300 sq. ft., (14,172 sq. ft./300 sq. ft. = 48), and 24 for the residential units (2 spaces per unit, 2 x 12 = 24). The applicant is proposing to provide 133 total spaces, 115 on site and 18 on the street immediately adjacent to the site. A shared parking agreement exists between the subject property and the property next-door

to the northeast which grants the applicant rights to another 27 surface spaces immediately behind the site. When counting both the on-street and shared parking in addition to the on-site parking, and assuming that half of the shared parking is available, the total parking provided amounts to 146 spaces, 23 spaces short of satisfying the City's parking requirements (see table below for complete breakdown).

Type of Parking	# of Spaces Required	# of Spaces Provided	Difference
On-site parking	169	115	
Existing shared parking		13 (assuming ½ of all available)	
Public on-street parking		18	
Totals	169	146	-23

The residential units will each have two parking spaces reserved solely for their use at all times on the bottom level of the parking garage, while the employees and customers of the medical and commercial uses will be required to share the remaining spaces. There should, however, be some efficiency in the sharing of parking between the medical and commercial uses in that demand for parking for the medical offices will be greatest during mornings before lunch and afternoons before 5:00, while peak demand for retail, restaurant and service uses will occur during midday and early evening hours and on weekends.

In addition, the Central Business District Concept Plan adopted by the City Council in November 2001 encourages granting parking reductions for mixed-use developments in the central business district in cases where structured or underground parking is provided and/or the project is located within ½ mile of a BART station. It also encourages exempting the first 2,500 square feet of each new retail development (up to a cumulative total of 10,000 square feet) from all parking requirements if the building is designed in a pedestrian-friendly manner with convenient access to public transportation, and when the mix of uses proposed will not have excessive overlapping of business hours. Similarly, Section 8-22007 of the Zoning Ordinance permits joint-use parking for mixed-use developments as a means of allowing parking reductions when it is clear that sufficient off-street parking exists and there is a high likelihood that people will walk to the site from nearby locations. In this case, there are numerous bus lines and a BART station all within walking distance and the project is surrounded by office developments, so it is reasonable to assume that many patrons will walk to the site instead of driving, and parking on adjacent properties including City Hall will become available for visitors during evenings and weekends. Furthermore, the proposed design will contribute to a pedestrian-oriented environment consistent with the vision of the CBD Concept Plan and the policies of the General Plan, and there have been no complaints of inadequate parking reported by property owners in the immediate area. In light of these facts, staff supports the proposed parking reduction.

Joint-Use Parking:

Pursuant to Section 8-22007 of the Municipal Code, the decision-making body may authorize the joint use of parking spaces to satisfy a mixed-use project's parking requirements if the following criteria are met:

- 1) The normal hours of operation of such uses or activities do not substantially coincide with each other; or
- 2) The development is located near available on-street parking or other public parking areas; or

- 3) Transit alternatives are available near the development; or
- 4) For mixed-use developments, residential and commercial parking demand often occurs at different times of the day. (This finding is not applicable since the applicant is proposing to provide reserved parking for the 12 residential units.)

In this case, the project will feature a mix of uses whose peak business hours vary enough that there should be sufficient parking to accommodate the demands of each. Medical offices and personal service uses generally have their peak business hours during morning and afternoons, while retail uses have theirs on early evenings and weekends and restaurants have theirs around lunch and dinner hours. Furthermore, the applicant will be providing 18 on-street parking spaces immediately adjacent to the project site and the Central Business District Concept Plan prescribes on-street parking on many of the streets in the immediate vicinity, so additional spaces will become available nearby as the CBD is built out in accordance with the Concept Plan. And finally, there are a number of AC Transit bus lines that provide service along Mowry Avenue and Paseo Padre Parkway with stops within walking distance, and the Fremont BART station is located less than ½ mile from the site. A condition of approval has been included requiring a legal agreement to be submitted to the City to the satisfaction of the City Attorney which guarantees that the shared parking will be maintained for joint use for the life of the project unless the developer is able to provide the required parking elsewhere in accordance with the requirements of the Zoning Ordinance.

Architecture/Design:

The proposed architecture features a modern design with a variety of siding materials, roofline heights and treatments, and window shapes and sizes. The focal point of the structure is a semicircular tower element facing the street corner with an extra-high cornice at the roofline. The primary siding material used over the building is stucco, with horizontal siding featured on some of the residential units and stacked stone veneer siding applied as an accent over the tower element and along the base of the building. Storefront entrances have been designed to provide transparency into each commercial space, but overall glazing is kept relatively low so as not to expose each space to excessive sunlight from the building's prominent southwestern exposure. Each space is separated by articulated wall surfaces, and the residential units on the top two floors are stepped back significantly to provide for individual balconies over the 2nd floor and to reduce looming and shadowing effects over the sidewalks. To ensure that all of the storefronts are as transparent as possible, a condition has been included requiring clear, non-colored glass on all storefront window/door systems. Approval of a master sign program will also be required to ensure that all proposed signage is of compatible size and style prior to the installation of any signage on the building.

The applicant has made a number of changes to the plans based on comments from the Planning Commission and staff, including revising the building's color palette and modifying the floor plan and tower element. The new color palette features more muted shades of pink and flesh tones thereby making it more compatible with other buildings in the area. Unique metal awnings have been added in addition to more traditional fabric awnings in shades of blue and purple which will be used to identify storefronts and provide shade over entrances and other primary fenestrations. The tower element has been further broken up by the addition of large storefront windows on the ground floor, and wider windows on the upper floors. Finally, the floor plan was revised to have the entrances to the service/delivery corridor separate from the residential and public elevator lobbies, and the storefront of

the rear-most commercial space has been given greater visibility and accessibility through the provision of parking immediately outside its entrance.

Green Building Practices:

The applicant is proposing to implement various green building features throughout the development, including using low-E, double-insulated tinted glass to minimize heat/cold transfer, low-emitting adhesives, paints and finishes, sensor-controlled lighting, and water-efficient landscaping and plumbing fixtures. Bicycle racks will also be provided at the center of the project near the street corner. In order to encourage implementation of other green building practices, a condition has been included requiring the developer to attempt to integrate Build-It-GreenTM and LEED components into the final design to the maximum extent practical.

Access/Circulation:

There is an existing shared driveway on Hastings Street at the northwest corner of the site straddling the property line that will provide secondary vehicular access to the rear of the site. The primary access to the back side of the building is provided via a new Capitol Avenue driveway. The Capitol and Hastings driveways connect on site and also connect with the shared parking area on the property immediately to the northeast. This configuration provides connectivity to the adjacent properties and provides emergency vehicle access all the way around the rear of the building.

The underground parking garage is accessed via a new driveway on Hastings at the end of the building. Circulation through the garage is provided via two-way drive aisles and ramps. Street access for visitors and the general public (other than the occupants of the residential units) who park in the garage will be provided via the elevator and stairs that will serve the medical offices. Occupants of the residences will have their own private lobby with elevator and stairs to take them from the garage to the third floor.

Landscaping:

The project includes construction of all new 14-foot wide sidewalks (City's urban sidewalk standard) that will contain tree wells capable of accommodating large-canopy shade trees. Smaller planters with an assortment of accent planting will be provided on either side of the tower element at the street corner, as well as in various locations around the back of the building. A long planter running the length of the northern side of the building will double as a stormwater treatment area for runoff from a large portion of the site. Decorative textured paving will be provided to the street corner bulb-out to add visual interest at the project's focal point, and bicycle racks and street furniture will also be located in this area.

Street Right-of-way Improvements:

The project site contains approximately 360 feet of frontage along Capitol Avenue and Hastings Street. No right-of-way dedication is needed in this case as the current property line locations correspond to the planned right-of-way widths for both streets; however the developer will install street improvements in accordance with the CBD Concept Plan, Subdivision Ordinance and Street Right-of-Way and Improvement Ordinance. The following outlines the street improvement requirements for this project:

- Capitol Avenue & Hastings Street are designated in the General Plan as collector streets and each have existing right-of-way widths of 102 feet. However, the CBD Concept Plan identifies both as "reconfigured pedestrian-oriented streets." As part of the Planned District, and consistent with the Concept Plan, the developer will implement the following street improvements including, but not

limited to, removal of existing pavement, curb, gutter and sidewalk along the frontages; removal of existing traffic signage and striping; removal and relocation of storm drain facilities; installation of new pavement, curb, gutter, sidewalk and driveways; installation of diagonal parking bays within landscape planter bulb-outs; installation of street trees and tree grates; installation of pavement striping including transitional signing and striping to match existing lane configurations; and grinding and overlay to the centerline of each street or as otherwise directed by the City Engineer.

The Concept Plan identifies the portion of the property fronting Capitol Avenue as part of the retail segment of the Main Street corridor concept, and Hastings Street is also identified as a retail street in the plan. While the proposed street sections generally meet the intent of the plan by providing extra-wide sidewalks and on-street parking, the sidewalk widths have been reduced from the 16-foot width prescribed by the plan to 14 feet in order to meet current Fire Department ladder access requirements. In addition to constructing 14-foot sidewalks, the applicant will also provide 19-foot diagonal parking bays along both streets. This will enable the project to comply with the maximum setback of 33 feet currently required for ladder access by the Fire Department.

Grading & Drainage:

The project site is approximately two feet higher than the surrounding street grades, and slopes gradually to the abutting frontage streets. Both streets have public storm drain mains and inlets which collect the existing stormwater runoff from the site. Grading for the project consists of excavating approximately twenty-two feet below existing street grades to build the underground two-story parking garage. The applicant's engineer estimates the total project grading to be 12,675 cubic yards of cut and 130 cubic yards of fill resulting in approximately 12,545 cubic yards of export. Staff has included a condition of approval requiring the developer to provide a financial guaranty (typically a bond) to backfill the excavated hole, in the event the project stalls before the building is constructed.

The street improvements shall include installation of storm drain inlets/valley gutters to collect storm water runoff from the newly paved areas. The runoff from the re-constructed pavement areas will be treated in landscape-based treatment BMPs before connecting to existing public storm drain facilities. The details of the proposed on-site and off-site storm drainage system will be included with the improvement plans for the project. The drainage system shall be subject to approval of the City Engineer and the Alameda County Flood Control and Water Conservation District.

Urban Runoff Clean Water Program:

The Alameda Countywide National Pollution Discharge Elimination System (NPDES) Municipal Stormwater Permit requires all new development to incorporate measures to prevent pollutants from being conveyed in stormwater runoff into the public storm drain system. This project is required to comply with the NPDES permit requirements by incorporating stormwater treatment measures into the project design.

The applicant intends to meet the on-site quantitative stormwater treatment requirements by installing a 150-foot long vegetative bio-swale along the northern side of the building to treat 73% of the total lot (impervious and pervious) area. The remaining 27% of lot area will be treated by an on-site stormwater treatment unit in the form of an underground vault with media-based filter cartridges. The reconstructed pavement areas along the project's street frontage shall be treated by landscape-based methods through the installation of two in-ground bio-infiltration planters at the intersection of Capitol and Hastings in

the expanded sidewalk areas. The stormwater treatment design shall be integrated into the storm drain design for the project and shall be subject to review and approval of the City Engineer prior to issuance of building permit.

Applicable Fees:

This application will be subject to Citywide Development Impact Fees. These impact fees include fees for fire protection, park facilities and parkland, capital facilities, and traffic facilities. All applicable fees shall be calculated and paid at the fee rates in effect at the time of building permit issuance.

Environmental Review:

An Initial Study and Draft Mitigated Negative Declaration have been prepared for this project. The Initial Study determined that the project could have a potential adverse impact on air quality through the generation of dust during excavation and construction activities, and that noise from adjacent roadways could have a significant impact on the building's occupants (see Informational Item #1). Because the project could have significant environmental impacts, a Draft Mitigated Negative Declaration was prepared and circulated for public review for 20 days from November 20, 2008 through December 10, 2008 in accordance with the requirements of the California Environmental Quality Act (CEQA) (see Exhibit "A"). The applicant has agreed to implement mitigation measures that would reduce the impacts the project may have to a less-than-significant level. These mitigation measures have been included as conditions of approval on the project. As such, staff recommends the Commission recommend that Council adopt the Mitigated Negative Declaration and Mitigation Monitoring Plan as presented in Exhibit "A".

PUBLIC NOTICE AND COMMENT:

Public hearing notification is required for the entitlements being requested. A total of 370 notices were mailed to the owners and occupants of all properties within approximately 500 feet of the site and a Public Hearing Notice was published in The Tri-City Voice on November 26, 2008 for the hearing on December 11, 2008. Because the Planning Commission continued the item at that hearing to a date certain (January 8, 2009), re-noticing was not required.

ENCLOSURES:

Exhibits:

Exhibit "A"	Mitigated Negative Declaration/Mitigation Monitoring Plan
Exhibit "B"	Proposed Rezoning to Planned District P-2008-177
Exhibit "C"	Planned District P-2008-177 Development Plans
Exhibit "D"	Tentative Tract Map 7996
Exhibit "E"	Preliminary Grading Plan
Exhibit "F"	Findings and Conditions of Approval

Informational Items:

1. Initial Study
2. Project Operations Statement from Applicant

RECOMMENDATION:

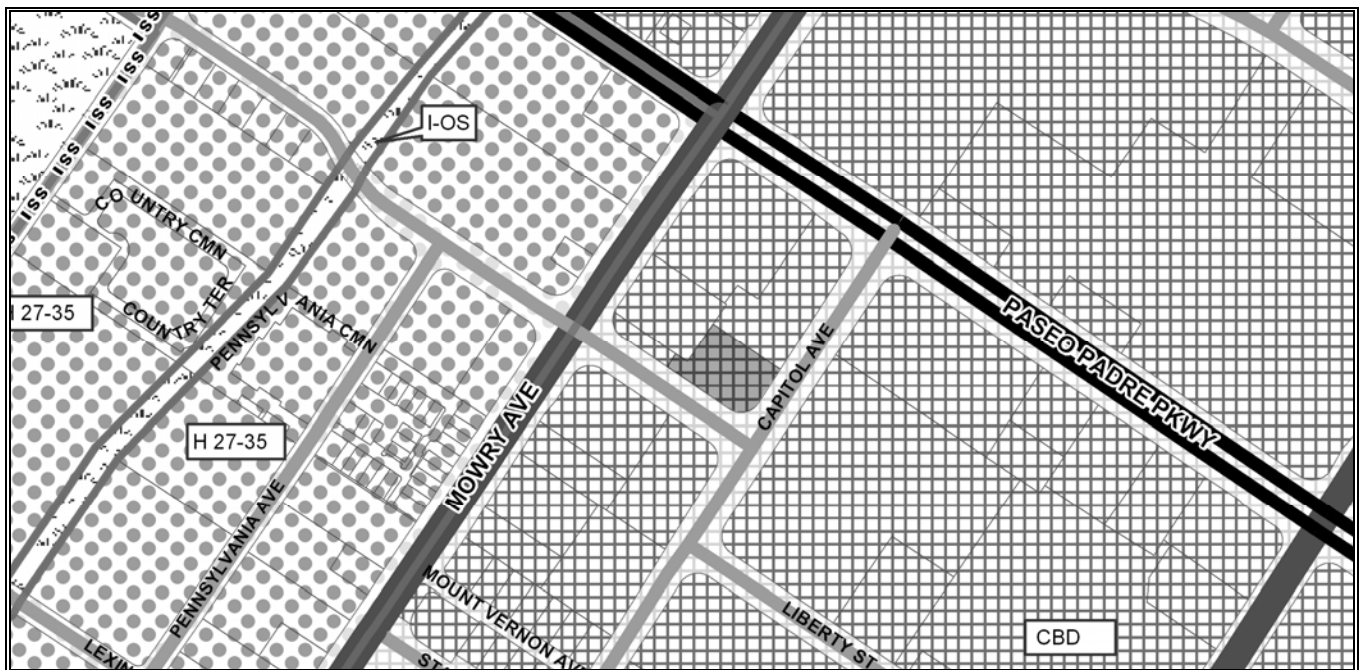
1. Hold public hearing;
2. Recommend that the City Council adopt the Mitigated Negative Declaration and Mitigation Monitoring Plan (Exhibit “A”) and find that this action reflects the independent judgment of the City of Fremont; and
3. Recommend that the City Council find Planned District P-2008-177, Tentative Tract Map 7996, and Preliminary Grading Plan, as shown on Exhibits “C”, “D” and “E”, respectively, fulfill the applicable requirements set forth in the Fremont Municipal Code; and
4. Recommend that the City Council introduce an ordinance rezoning the subject property from Central Business District to Planned District, P-2008-177 as shown on Exhibit “B”; and
5. Recommend that the City Council approve Planned District P-2008-177, Tentative Tract Map 7996 and Preliminary Grading Plan, as shown on Exhibits “C”, D” and “E”, respectively, based on the findings and subject to the conditions set forth in Exhibit “F”.

Existing Zoning

Shaded Area represents the Project Site



Existing General Plan



Pln 2008-00177

Planned District Exhibit "B"

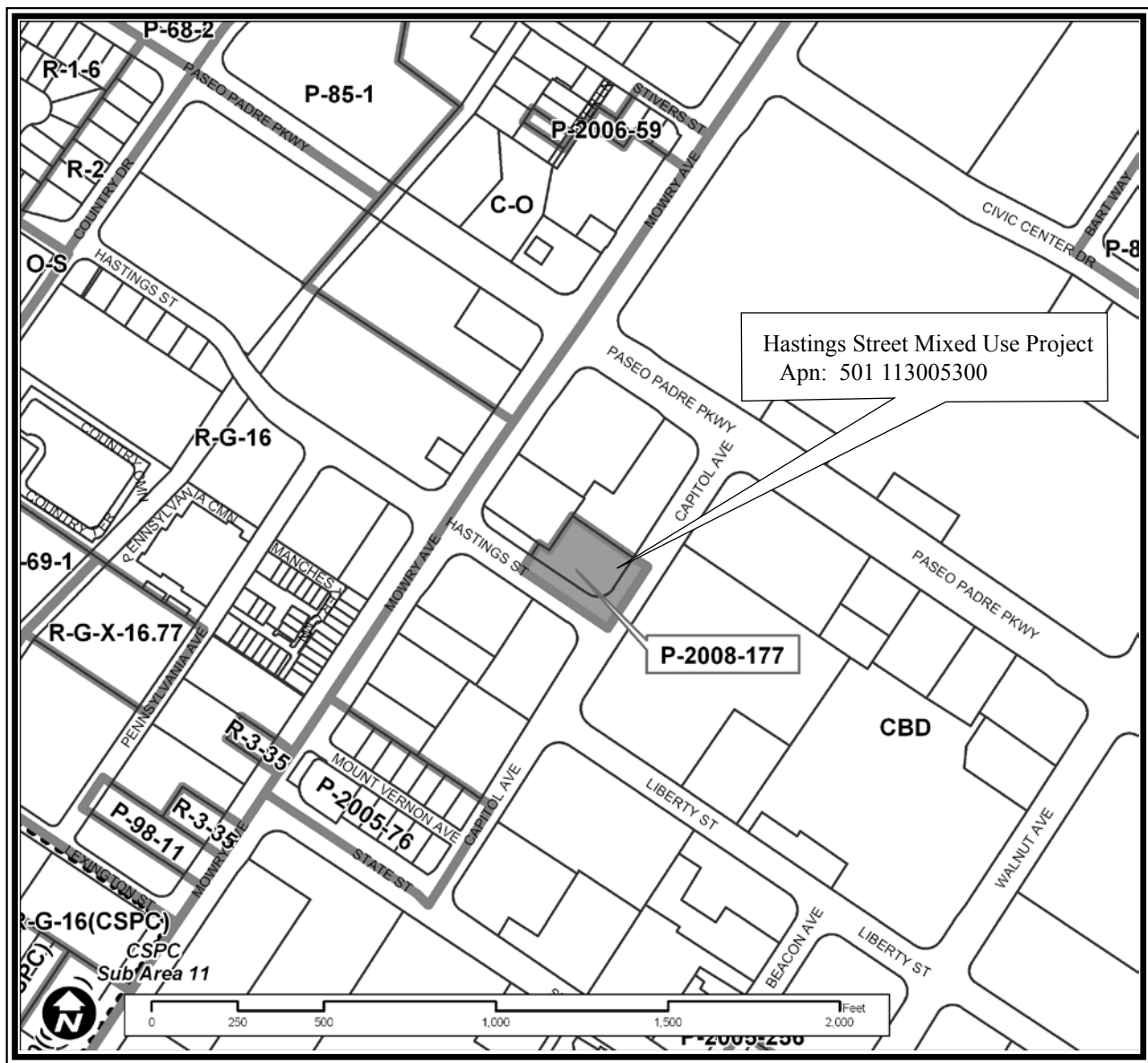
Incorporated as Attachment No. 1

And Made Part of Ordinance No. _____

On the _____ day of _____, 2009.

ZONING MAP (SECTION)

AFFECTS ZONING MAP(S) IN THE CENTRAL PLANNING AREA



[Continued to 2009-01-08 by pc on 2008-12-11] 66-384

Project Name: Hastings Street Mixed Use Project

Change From: CBD

To: P-2008-177



Exhibit "F"
PLN2008-00177

Hastings Street Mixed-Use Project Findings and Conditions of Approval
Rezoning to Planned District P-2008-177, Tentative Tract Map 7996 & Preliminary Grading Plan

FINDINGS:

The findings below are made on the basis of information presented at the public hearing and contained in the staff report to the Planning Commission dated January 8, 2009, incorporated hereby:

Rezoning to New Planned District (P-2008-177):

- a. The proposed P district, or a given unit thereof, can be substantially completed within four years of the establishment of the P District in that the applicant expects to complete the work (excavation for the underground parking garage, construction of the building, and the installation of new frontage improvements along the two streets, including street re-stripping, and curb, gutter and sidewalk installation) in approximately 2 years after the approval date;
- b. Each individual unit of development, as well as the total development, can exist as an independent unit capable of creating an environment of sustained desirability and stability in that it will feature a mix of uses that not only cater to patrons visiting the site, but also to the residents who will occupy the dwelling units on the top floors; therefore, the project will create 24-hour activity on the site. In addition, the uses proposed will not be detrimental to present and potential surrounding uses, but will have a beneficial effect which could not be achieved under other zoning districts in that the mix of residential, office and commercial uses all at one site will generate a steady level of activity in the area that may provide spillover benefits to nearby commercial developments;
- c. The streets and thoroughfares proposed are suitable and adequate to carry anticipated traffic, and increased densities will not generate traffic in such amounts as to overload the street network outside the P district in that a traffic operations analysis was conducted as part of the Environmental Impact Analysis for the project which concluded that the additional traffic generated will not significantly impact existing levels of service on the adjacent roadways, and the developer will be required to construct all new pedestrian-friendly street frontage improvements and re-stripe both streets to coordinate with these improvements;
- d. The proposed commercial development can be justified economically at the location(s) proposed to provide for adequate commercial facilities of the types proposed in that it will provide convenient retail and personal service options for the residents and the owners of the medical suites on the upper floors without them having to drive off site;
- e. The requested parking reduction is warranted by the design and amenities incorporated in the precise site plan, in accord with adopted policy of the Planning Commission and City Council, in that the project complies with numerous policies in the Central Business District Concept Plan and Mixed-Use Development Ordinance both of which encourage allowing parking reductions for projects that provide pedestrian-friendly project features and amenities, structured and/or adjacent

on-street parking, a mix of uses that do not all have overlapping peak business hours, and access to public transportation service, all of which the proposal provides in this case;

- f. The area surrounding said development can be planned and zoned in coordination and substantial compatibility with the proposed development in that the development has been designed to connect to the adjacent properties via shared driveways, drive aisles and surface parking, and was oriented in a pedestrian-friendly manner consistent with the Central Business District Concept Plan's vision for the CBD area;
- g. The P district is in conformance with the General Plan of the City of Fremont in that it will introduce mixed-use development to the central business district where such development is encouraged to help create a focal point of activity in a pedestrian-friendly environment in the center of the city; and
- h. Existing utility services are adequate for the population densities proposed in that the local utility service providers have indicated that are existing services in place capable of accommodating the proposed development.

Tentative Tract Map No. 7996:

- a. The map meets or performs all of the requirements or conditions imposed by the Subdivision Map Act and Chapter 1 of the Zoning Code (Subdivisions);
- b. The proposed subdivision, together with the provisions for its design and improvements, is consistent with applicable general and specific plans in that it features mixed-use development in the central business district where such development is encouraged to help increase activity levels and foster a pedestrian-friendly environment in the downtown area; and
- c. The site is physically suitable for the type or proposed density of development in that it is situated in the middle of the central business district and oriented towards the corridor which is slated to be the main downtown thoroughfare in the City's CBD Concept Plan;
- d. The design of the subdivision or the proposed improvements is not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat in that the project will not generate significant volumes of traffic, air, or water pollution, and there are no trees or fish and/or wildlife habitat on the site that will be impacted by the proposed development;
- e. The design of the subdivision or the type or improvements is not likely to cause serious public health problems in that it complies with all applicable building and life safety codes; and
- f. The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision in that the project has been designed to tie into and maintain the existing easements, as well as connect to the adjacent properties through new driveways and on-site circulation routes.

Preliminary Grading Plan:

- a. The proposed project will not have an appearance, due to the proposed grading, excavation, or fill, that is substantially and negatively different from the existing natural appearance in that the only reason a preliminary grading plan is required is due to the amount of excavation that must occur to accommodate the underground parking garage. When the project is completed, it will be situated on the same grade as the adjacent properties with the finished ground floor elevation no higher or lower than that of the adjacent buildings.
- b. The proposed project will not result in geologic or topographic instability on or near the site in that a geotechnical study was conducted as part of the environmental impact assessment for the project which found that development of the site with the proper foundation construction and shoring techniques implemented during excavation of the garage will not result in geologic instability on or adjacent to the property;
- c. The proposed project will not endanger public sewers, storm drains, watercourses, streets, street improvements, or other property; will not interfere with existing drainage courses, and will not result in debris being deposited on any public way in that the site will be shored during excavation to protect existing improvements in the right-of-way and the applicant will be required to comply with the City's stormwater pollution prevention requirements;
- d. The proposed project will conform, where applicable, to special concerns relating to the adopted seismic safety element and concerns shown on maps issued by the U.S. Geological Survey and the California Division of Mines and Geology, and supplemental data and substantiation of conclusions may be required by the Public Works Director upon city review of the reports; and
- e. The proposed project will not unacceptably affect the health, safety or welfare of adjacent residents and property owners, nor the citizens of Fremont, in that conditions of approval have been placed on the application to prevent it from having adverse impacts on the adjacent properties or the city as a whole.

Mixed-Use Development Standards:

- 1) The development integrates into the existing community and creates an appropriate internal and external human scale, providing for pedestrian comfort and amenities;
- 2) The building and site layout is adaptable and would permit future changes in land use over time. Each use is designed and positioned to achieve its maximum potential so that it performs as a whole and benefits from one another. An efficiently functioning infrastructure is incorporated in the design of the development capable of servicing each component of the development's differing demands;
- 3) The land uses provided by the development are compatible with one another and with the adjacent neighborhood. The commercial uses have been regulated so as to be those which would serve the residents of the development and the neighborhood. In addition, the project includes amenities and

- 4) The development is able to provide safe and well-organized pedestrian access within the site and to relevant adjacent areas. All portions of the development are accessible by a direct, convenient, attractive, and comfortable system of pedestrian facilities;
- 5) The development provides usable public and private open space, enhances the vitality of existing commercial activity, and recognizes and responds appropriately to adjacent existing or planned public spaces (e.g., parks, civic buildings, transit stops, sidewalks, plazas, and similar spaces); and
- 6) The development minimizes the amount of land developed as surface parking, including implementing measures which reduce the overall amount of parking needed for the development, such as but not limited to, joint-use parking and access to public transit. Parking areas have been located to the rear of the building where they can be conveniently and safely accessed and without difficulty from the street and within the development, and are designed in such a way that they do not dominate street frontage or interfere with pedestrian areas. In addition, on-street parking is provided in close proximity to the retail component of the development along the two street frontages.

Joint-Use Parking:

- 1) The normal hours of operation of the proposed mix of uses that will share joint-use parking do not substantially coincide or overlap with each other in that the development will contain office, and personal service uses whose peak business hours occur before and after lunch, retail uses whose peak hours occur on early evenings and weekends, and restaurants whose peak hours occur around midday and at night;
- 2) The development is located near available on-street parking or other public parking areas in that the applicant will be providing 18 new on-street parking spaces immediately adjacent to the site and the Central Business District is planned to ultimately be built out with on-street parking on all nearby streets; and
- 3) Transit alternatives are available near the development in that numerous Alameda County Transit (AC Transit) bus lines run past the site on Mowry Avenue and Paseo Padre Parkway, and BART is located within ½ mile of the project.

PLANNED DISTRICT CONDITIONS OF APPROVAL:

Planning Division

1. The approval of Planned District P-2008-177 shall conform to Exhibit “C” (Preliminary and Precise Project Plans) and staff-amended Exhibit “D” (Tentative Tract Map 7996) and all the conditions of approval set forth herein.

2. This approval allows for a maximum of 6 commercial condominium units, 12 medical office condominium units and 12 residential condominium units.

3. Permitted land uses in the ground floor units shall be limited to the following:

- a. Apparel and Accessory Stores,² including: personal clothing rental and consignment shops;
- b. Antique stores;²
- c. Art dealers/stores;²
- d. Banks, Savings & Loans, and Credit Unions with retail services;
- e. Beauty and Barber Shops;²
- f. Drug Stores and Proprietary Stores;²
- g. Florists;²
- h. Food Stores of the following types, excluding Slaughter¹: Grocery Stores,² Meat and Fish Markets², Fruit and Vegetable Markets,² and Retail Bakeries;²
- i. Furniture and Home Furnishing Stores,² Paint, Glass and Wallpaper Stores,² Household Appliance Stores,² Radio, Television, & Computer Stores;²
- j. Eating and Drinking Places,² when closed by midnight;
- k. Miscellaneous Shopping Goods Stores;²
- l. Offices, General and Medical in the rear tenant space only ("Commercial 6");
- m. Optical Goods Stores;²
- n. Photocopying and duplicating services;² and
- o. Photographic Studios, Portrait².

Zoning Administrator uses in the ground floor units shall be limited to the following:

- a. Eating and Drinking Places,² when open past midnight;
- b. Used merchandise stores (excepting those permitted above) when separated from each other by more 300 feet; and
- c. Sidewalk dining³.

Permitted uses in the second floor units shall be limited to the following:

- a. Offices, General and Medical;
- b. Medical and Dental Laboratories;²
- c. Individual and Family Services;²
- d. Job Training and Related Services;²
- e. Professional Organizations;²
- f. Architectural, Engineering, Legal and other office-type services; and
- g. Radio and television broadcasting².

Permitted uses in the twelve (12) units comprising the third and fourth floors shall be limited to the following:

- a. Single-family residential condominiums.

Zoning Administrator uses in the twelve (12) units comprising the third and fourth floors shall be limited to the following:

- a. Home Occupations³.

Prohibited uses within this mixed-use building shall be those outlined in Sections 8-21201.1 and 8-22148.7(3), adult bookstores,^{1,3} firearms dealers,^{1,2,3,4} head shops,¹ slaughter,¹ adult theaters,¹ and residential care².

There are no CBD-based Zoning Administrator or Conditional uses authorized within this Planned District except home occupations within the residential units.

4. Minor modifications to the design and modifications required by these conditions of approval may be made by the Planning Director; however, the Planning Director reserves the right to refer the design modifications back to the Planning Commission.
5. Final plans for the project shall be submitted to the Development Organization for review and approval to ensure compliance with relevant codes, policies and other requirements of the Fremont Municipal Code, these conditions of approval, and any other associated approvals.
6. The project will be subject to citywide development impact fees. These fees may include, but are not limited to fire protection fees, park facilities and parkland, capital facilities and traffic facilities. All fees shall be calculated at the rates in effect at the time of building permit issuance.
7. The applicant shall endeavor to lease the corner tenant space ("Commercial - 2" as referenced in the plans contained in Exhibit "C") to a restaurant for a minimum of 1 year upon completion of construction of the project.
8. The property owners having rights to the joint-use off-street parking on the site shall submit a legal agreement to be approved by the City Attorney as to form and content guaranteeing that all shared off-street parking facilities be maintained for joint use so long as the uses requiring parking are in existence or unless the required parking is provided elsewhere in accordance with the provisions of Article 20, Chapter 8 of the Municipal Code. Such instrument, when approved, shall be recorded by the property owners' association in the office of the County Recorder and a copy thereof filed with the Planning Division.
9. Twenty-four (24) parking spaces in the underground parking garage shall be reserved at all times for the exclusive use of the occupants of the 12 residential condominium units.
10. Street lighting, furniture and bicycle racks for the project shall match the design ultimately selected by City Council for the Central Business District Focus Area. Placement/location of these improvements/amenities shall be to the satisfaction of the City Landscape Architect and City Engineer.
11. All glazing used on the storefront window/door systems on the ground floor of the building shall consist of clear, non-colored glass to maximize visibility into each commercial tenant space.
12. The developer shall endeavor to integrate Build-It-GreenTM and LEED components into the final project design to the maximum extent practical.

13. The developer shall establish an awning replacement program for review and approval by the Planning Division to ensure that awnings are replaced regularly after they reach a certain age. This program shall be included in the Covenants, Conditions and Restrictions (CC&R's) for the project and be provided to the owners of each unit upon purchase.
14. Signage is not a part of this review. The developer shall apply for a Planned Sign Program that will be subject to review in accordance with Article 21 of the Fremont Municipal Code. The sign program application shall be filed at the same time as the application to the Development Organization.
15. The following measures shall be required as part of a dust control plan and noted on construction drawings, and a designated contact person shall be assigned to implementation of the dust control plan. The contact information for this person shall be provided to the Development Organization prior to issuance of a building and/or demolition permit.
 - a. Water all active construction and site preparation work areas at least twice daily and more often during windy periods.
 - b. Cover all hauling trucks or maintain at least two (2) feet of freeboard on all loads.
 - c. Pave, apply water at least twice daily, or apply non-toxic soil stabilizers on all unpaved access roads, parking areas and staging areas.
 - d. Sweep daily with water sweepers all paved access roads, parking areas, and staging areas, and sweep streets daily with water sweepers if visible soil material is deposited onto adjacent roads.
 - e. Apply hydroseed or non-toxic soil stabilizers to inactive construction areas (i.e., previously-graded areas that are inactive for a period of 10 days or more).
 - f. Enclose or securely cover all exposed stockpiles.
 - g. Replant vegetation in disturbed areas as quickly as possible.
 - h. Suspend construction activities that cause visible dust plumes that extend beyond the construction site.
16. All intersections between walls and floors and walls and ceilings shall be carefully caulked with resilient, non-hardening sealant.
17. To the extent feasible, electrical outlets in exterior walls shall be avoided. When such avoidance is not feasible, outlet box pads such as those manufactured by Lowry's shall be applied to all electrical boxes. All edges of electrical outlet boxes and other penetrations shall be carefully caulked with non-hardening acoustical sealant.
18. All window frames shall be caulked with resilient sealant to provide an airtight seal. A bead of resilient caulking shall be applied to all window casings before installation.
19. Windows and balcony doors for all residential-unit bedrooms facing Mowry Avenue shall feature a minimum certified laboratory OITC⁵ rating of 30 (corresponding approximately to STC 37). Windows and balcony doors for all other habitable rooms in residential units (apart from bedrooms) shall feature a minimum certified laboratory OITC⁵ rating of 27 (corresponding approximately to STC 34).

20. Windows in all commercial and office spaces shall be dual-paned and feature a minimum certified laboratory OITC rating of 25 (corresponding approximately to STC 30).
21. Supplemental ventilation shall be provided for all residential units in the development in areas exposed to a Day-Night Average Sound Level (L_{dn}) exceeding 60 decibels so that windows can be kept closed to reduce exterior noise levels when desired by occupants. Supplemental ventilation can be achieved by the following three methods: (a) providing ducted heating/ventilation systems or full air-conditioning; (b) using bathroom exhaust fans to draw outside air into the building through sound-attenuated “Z-ducts” located in the exterior walls of habitable rooms facing the higher noise areas; or (c) providing passive, ducted air inlets that extend from the building’s rooftop into each unit. These inlets must be acoustically lined through the top-most 6 feet in length and incorporate one or more 90-degree bends so as not to compromise the noise-insulating performance of the residential unit’s exterior envelope.
22. Solid screens of a minimum 4 feet in height shall be provided along the outer edge of each residential unit’s balcony. These screens shall be designed to integrate with the architecture of the building.
23. A note shall be placed on the cover sheet of the final construction plans limiting all construction and demolition activities to the following hours. Failure to comply with these hours will result in the withholding of building inspections.
 - a. Monday-Friday from 7 a.m. to 7 p.m.
 - b. Saturdays & Holidays 9 a.m. to 6 p.m.
 - c. No construction activities allowed on Sundays.

Engineering Division

1. Required street improvements shall include, but not be limited to: removal of existing curb, gutter, sidewalk, utilities, driveways and pavement; removal of existing signage and striping; installation of new pavement, curb, gutter, sidewalk, driveways, parking bays with landscape planters and street trees; installation of signage and striping necessary along frontages and transition striping to existing lane configuration; installation of public storm drain laterals as necessary to facilitate drainage; and repair of existing street pavement (grind and overlay) as directed by the City Engineer.
2. All new utility service connections, including electrical and communications, shall be installed underground. Above-ground electrical transformers may be installed within an appropriate utility easement or public service easement.
3. The project’s storm drain system shall conform to City standards and shall be subject to review and approval of the City Engineer and the Alameda County Flood Control and Water Conservation District. Drainage calculations shall be submitted with the grading and drainage plans at the time of building permit submittal.

4. Proposed curb elevations for the street system shall not be less than 1.25 feet above the hydraulic grade line (design water surface) and at no point should the curb grade be below the energy grade line. On-site grades are to be a minimum of 0.75 feet above the hydraulic grade line.
5. The on-site improvement plans shall include storm water treatment plans and calculations that comply with Planned District P-2008-177 and that identify Best Management Practices (BMPs) appropriate to the uses conducted on-site to effectively prohibit the entry of pollutants into storm water runoff.
6. The provided Storm Water Control Plan is preliminary and approved in concept only. Final approval is subject to the developer providing the necessary plans, details, and calculations that demonstrate the plan complies with the Alameda Countywide NPDES Municipal Stormwater Permit, subject to City Engineer approval prior to recording the final map.
7. All public and private storm drain inlets must be stenciled "No Dumping - Drains to Bay" using thermoplastic stencils purchased from the City of Fremont Environmental Services Division. Alternative inlet stencils or marking may be permitted subject to approval by the City.
8. In accordance with the Alameda Countywide NPDES Municipal Stormwater Permit, Order 822003-0021, NPDES Permit No. CAS0029831, the property owners shall enter into a maintenance agreement for the long-term operation and maintenance of stormwater treatment measures and flow duration controls located on the property. The agreement shall run with the land and be recorded prior to issuance of the building permit or concurrently with the subdivision map.
9. Site grading and drainage is subject to the approval of the Development Organization Engineer at the time of building permit issuance. Site grading must not obstruct natural flow from abutting properties or divert drainage from its natural watershed. The drainage area map developed for the drainage design for this project shall be based on the original drainage area map developed for the existing storm drain system and shall clearly indicate all areas tributary to the project site.
10. The developer of Property Owners' Association (POA) shall execute a Maintenance Agreement with the City of Fremont. The Maintenance Agreement shall require the POA to provide for the maintenance, cleaning, and general upkeep of the public street frontages on Capitol Avenue and Hastings Street. The area of obligation shall be from the back of curb to the property line, which includes, but is not limited to: the public sidewalk (including the decorative paving), street trees, benches, trash receptacles, bicycle racks and stormwater treatment measures within the public right-of-way.

Transportation & Operations Department

1. Where applicable, all curbing which outlines the fire lanes shall be painted red. White lettering reading "No Parking - Fire Lane" shall be a minimum of four inches tall and shall be placed every 30 feet or portion thereof, on top of designated curbing or striping. R26F signs (No Stopping Fire Lane) shall be installed at 100' intervals.

2. Future plan submittals shall include a striping and signing plan on-site and off site. The striping and signing plan shall show but not be limited to existing signing and striping along both Capitol Avenue and Hastings Street, fire lane designations signed with No Stopping Fire Lane & red curbing, driveway stop sign and limit line, and any proposed signing and striping modifications along Capitol Avenue and Hastings Street.
3. The following recommendations must be addressed at the time of building permit review:
 - a. The garage ramps should include transitional sections with slopes no greater than 10%.
 - b. The parking structure ramps should provide a minimum vertical clearance of 8 feet 2 inches.
 - c. The parking structure ramps should be widened an additional 5 feet, or a large mirror should be installed above the ramps so that approaching vehicles entering and exiting the garage can see each other on the ramp.

Landscape Architecture Division

1. The landscape design shall meet current Best Management Practices for sustainable environments. Pavement, fencing and other landscape site improvements shall be constructed of durable, rot resistant and sustainable materials. Trees and shrubs shall be selected to be well-suited to the space available and to require minimal pruning and maintenance once established. Irrigation systems shall be designed to conserve water per the “Turf and Landscape Irrigation Best Management Practices” handbook of the Irrigation Association – Water Management Committee. A monthly irrigation water budget shall be provided as part of the design documentation package.
2. All trees shall be 24” box minimum, shrubs and ground cover plants shall be one (1) gallon minimum, and 60% of shrubs shall be 5 gallon or greater.
3. All planting areas containing trees shall be at least five (5) feet wide and free of all Utility Structures (including light standards) and other built features consistent with the spacing requirements of City Standard Detail Street Tree Clearances. Utilities may require relocation in order to install the required trees.
4. Plant four additional 24” box trees in the stormwater treatment facility on the north and west side of the project. Trees planted in stormwater treatment facilities shall be planted on pedestal of compacted native soil. The design of the stormwater treatment measures shall be modified as required to allow for the planting of the trees.
5. Place three large pots (minimum) within the entry plaza at the corner of Hastings Street and Capitol Avenue to enhance this space and add seasonal color.
6. Specific selection of site furnishings, pots and pedestrian lights shall be determined during Development Organization. Plans shall include full details regarding: (1) paving materials and textures of walkways and paved pedestrian areas; and (2) lighting of walkways and pedestrian areas with low intensity non-glare type fixtures. As part of the construction documents the applicant shall submit:

- a) A lighting plan showing the location of pedestrian scale light fixtures. Please note: the maximum height of pedestrian lights shall not exceed thirteen (13) feet in height and the lamp wattage shall not exceed 70 watts.
 - b) Construction details of raised planters, walkways, benches, walls, fences and other site features as appropriate to the project.
7. All provisions of the City of Fremont Landscape Development Requirements and Policies (LDRP) shall apply to this project unless otherwise approved by the City Landscape Architect. Current copy of the LDRP available at the Development Services Office shall prevail.

Fire Department

1. The new northwest 22-foot Emergency Vehicle Access Easement (EVAE) must have a minimum 22.5' inside radius.
2. Install one (1) public fire hydrant in the general area at the corner of Hastings Street and Capitol Avenue to the satisfaction of the Fire Department.
3. Maximum building height to allow for ladder access shall not exceed 57 feet. Intermittent architectural projections up to 63 feet in height are acceptable (e.g. the tower elements depicted on the plans).
4. The setback from the first-floor building face to the end of the diagonal parking shall not exceed 33 feet.
5. Driveways and/or access roads shall meet Fire Department standards for surface type, distance, weight loads, turn radius, grades, and vertical clearance. Except for the public streets and diagonal parking areas, the applicant shall provide red curbs, curb lettering and fire lane signs.
6. The applicant shall install an N.F.P.A. 13 sprinkler, NFPA 14 standpipe, NFPA 24 underground fire line and NFPA 72 fire alarm system complying with local amendments. Each is typically a deferred submittal, but must be coordinated with the overall building construction phases
7. Prior to installation, plans and specifications for the underground fire service line must be submitted to the Fremont Fire Authority and Building Department for review and approval. Please include cathodic protection or soils report stating why protection is not required.
8. Fire Department Connections for all sprinkler system must be located not more than 100 feet from a fire hydrant. N.F.P.A 14. All inlets shall have Knox type caps and signs/address placards installed at the connection.
9. The applicant shall install a fire alarm system as required. The system must be N.F.P.A. 72 compliant, monitored, and have an interior audible device per the C.F.C. Prior to final inspection, a "UL" serial numbered certificate shall be provided at no cost to the City of Fremont Fire and Life Safety Inspector. Fire alarm system devices shall be individually addressable and report to the Central Monitoring Station.

10. The applicant shall have a key box (Knox brand) located outside of buildings/gates and provide keys to the Fire Department so they may gain access. Applications can be obtained at the Fire Administration office located at 3300 Capitol Avenue, Fremont, 94538.
11. All building/tenant addresses shall be visible from the public street.
12. The elevator car size for both elevators shall accommodate an ambulance gurney.
13. The applicant must immediately notify the Fremont Fire Department, Hazardous Materials Unit of any underground pipes, tanks or structures; any suspected or actual contaminated soils; or other environmental anomalies encountered during site development activities. Any confirmed environmental liabilities will need to be remedied prior to proceeding with site development.

Police Department

1. No trespassing/loitering signs shall be posted at entrances of parking lots and other pedestrian access points with letter of enforcement on file with the police department.
2. All entrances to parking areas shall be posted with appropriate signs per Section 22658(a) of the Vehicle Code to assist in the removal of vehicles at the property owners' association/manager's request.
3. A security gate or roll-up door shall be required for the underground parking garage and have the ability to be closed and locked during late night hours.
4. Tamper-proof lighting shall be used in all parking areas.
5. An address monument and complex map shall be provided at the two lobby entrances which includes a topical view of the building floor plan and the addresses of each unit. It should be illuminated during the hours of darkness and positioned so as to be readily readable from main vehicular or pedestrian access points.

Environmental Services Division

1. All residential dwelling units shall include a minimum of six (6) cubic feet for indoor temporary storage of garbage and recyclable material (i.e., under the kitchen sink or in a pantry, etc.).
2. There must be sufficient room for garbage collection vehicles to turn around on the drive paths. The required turning radius for garbage vehicles is 37.5 feet (minimum). If the garbage trucks must back up instead of turn around, the maximum safe backup distance is 150 feet, unobstructed.
3. The applicant must submit a City of Fremont Waste Handling Plan prior to beginning any demolition or construction. The Environmental Services Division will review the plan and may recommend alternative disposal methods for the material. The Plan must be received and reviewed by Environmental Services before any permits are issued.

4. Separated material destined for recycling may not contain more than 10% of solid waste or other non-recyclable material.
5. The contractor must insure that non-recyclable construction and demolition debris (trash) is removed from the site per the Fremont Municipal Code, including one or more of the following ways:
 - a. Contacting the City's franchised waste hauler, Allied Waste Services, to arrange for use of debris box containers for all materials to be landfilled;
 - b. Removal from the premises by the construction or demolition contractor (using their own equipment and vehicles) as part of a total construction, remodeling or demolition service offered by that contractor;
 - c. Placement of small amounts of debris into the customer's existing trash container(s) with prior notice to the City's franchised waste hauler, Allied Waste Services.
6. Upon completion of the work, the applicant must file a Waste Disposal & Diversion Report documenting actual diversion and disposal of construction and demolition debris, along with receipts and weight tags. Copies of the Waste Handling Plan and the Waste Disposal & Diversion Report forms are attached in the Waste Handling Guidelines document, available at the Environmental Services office located on the 2nd floor at 39550 Liberty Street, Fremont, 94538.
7. Municipal solid waste (MSW) collection service is required for all occupied commercial and residential properties, and is provided by Allied Waste Services (AWS) on an exclusive franchise basis. Contact AWS at (510) 657-3500 to arrange for garbage service. All garbage containers, including compactors, must be serviced at least once per week.
8. Recyclables collection is mandatory at single-family and multi-family residential complexes, and is provided by Allied Waste Services, on an exclusive basis. Recycling must be collected at least once per week for all residential properties. Recycling and organics collection is available to commercial businesses at a discounted cost.
9. All residents and tenants shall have access to both the medical and residential lobbies to reduce the distance from the residential units to the trash room.
10. There shall be a single property manager for all uses within the building.
11. The City of Fremont Noise Ordinance must be documented in the CC&R's, and noticed to all potential buyers. Allied Waste Services is allowed to provide garbage collection service to commercial buildings at any time between 3 a.m. and 6 a.m. Residents are typically serviced after 6 a.m. However, given that the development will contain commercial/office uses, they may be serviced as early as 3 a.m.

END OF PLANNED DISTRICT CONDITIONS

TENTATIVE TRACT MAP CONDITIONS OF APPROVAL:

1. The project shall conform to staff-amended Exhibit "D" (Tentative Tract Map 7996), all conditions of approval set forth herein, and the conditions of approval of Planned District P-2008-177.
2. Approval of this Tentative Tract Map shall be effective only after City Council approval of Preliminary & Precise Planned District P-2008-177.
3. Approval of this Tentative Tract Map shall expire according to the provisions of the State Subdivision Map Act and any amendments thereto and applicable provisions of the Fremont Municipal Code consistent with the State Subdivision Map Act.
4. The maximum number of condominium units established by the subdivision shall be limited to thirty (30).
5. An easement abandonment to remove the existing ten-foot wide public utility easement (PUE) dedicated with Parcel Map 5395 shall be approved prior to issuance of a building permit. Existing utilities within this PUE shall be relocated by the developer at his/her own expense.
6. Pursuant to FMC Section 8-1523, the record owner(s) shall dedicate the required public easements as shown on the Exhibit "D". Any additional easements required by the various public utilities and public agencies shall be dedicated prior to final subdivision map approval.
7. Pursuant to FMC Section 8-1522, the subdivider shall agree to improve the Capitol Avenue and Hastings Street frontages of the subdivision map prior to issuance of building permit. No permanent improvement work is to commence until improvement plans and profiles have been reviewed and approved by the City Engineer to insure conformance with relevant codes, policies, and other requirements of the Fremont Municipal Code. Improvements are to be installed to permanent line and grade in accordance with the City's subdivision improvement standards and to the satisfaction of the City Engineer. The minimum improvements which the subdivider is normally required to construct or agree to construct prior to acceptance and approval of the final subdivision map by the City are as set forth in FMC Section 8-1522. Improvements to be constructed include but are not limited to: curb and gutter; sidewalk; driveways; street paving; street lights and conduit relocations as necessary; drainage facilities; signage and striping; and fire hydrants.
8. The subdivider shall install complete street improvements for Capitol Avenue and Hastings Street as shown on the tentative tract map. Off-site Improvement plans for reconstruction of Capitol Avenue and Hastings Street frontage shall be submitted to Engineering Division concurrently with the building permit application. Off-site improvements shall be approved by the City Engineer and bonded prior to recordation of the subdivision map.
9. Access considerations for the on-site circulation system require space to be reserved for the movement of fire-fighting and emergency vehicles for the protection of both private property and the public. The developer shall dedicate emergency vehicle access easements (EVAE) on the final

subdivision map. The easement width and geometry shall be subject to the approval of the City Engineer.

10. The developer shall request PG&E to commence with the design of the utility underground work for the proposed development after the Planning Commissions approval of Tentative Tract Map 7996.
11. The project storm drain system shall conform to City standards and shall be subject to review and approval of the City Engineer and the Alameda County Flood Control and Water Conservation District. Public storm drain alignments shall be straight, unless curved alignments are approved by the City Engineer. Drainage calculations shall be submitted with the grading and drainage plans for the project at the time of building permit submittal.
12. Pursuant to Government Code Section 66474.9, the subdivider, or any agent thereof, or successor thereto, shall defend, indemnify, and hold harmless the City of Fremont, its officials, employees or agents (collectively "City") from any claim, action or proceeding against the City to attack, set aside, void, or annul, the City's approval concerning this subdivision map application, which action is brought within the time period provided for in Section 66499.37. The City will promptly notify the sub-divider of any such claim, action, or proceeding and cooperate fully in the defense.
13. Deed restrictions are to be recorded concurrently with the final map to create a mandatory Property Owner's Association or any other mechanism acceptable to the City for those lots which are to covenant and be responsible for the following:
 - a. Maintenance of all the facilities in the common area which are not maintained by a public utility agency, except all utility work resulting from backfill failure is to be the responsibility of the Property Owner's Association (after the one-year warranty period). The developer is to be responsible for maintenance of all facilities during the one-year warranty period.
 - b. Payment of the water and private lighting (maintenance and energy) bills.
 - c. Maintenance, repair, replacement and removal of blockages in all building sewers. Maintenance of the building sewers includes repair of any trench failures and/or trench surface material failures.
 - d. Maintenance and "knock-down" repair of fire hydrants and water facilities along the common area is to be done by the utility agency at the expense of the Property Owner's Association. The Property Owner's Association is to be responsible for repainting any fire hydrants within the common area.
 - e. Operation and maintenance of storm water treatment devices in the common area per the recorded O&M agreement.
 - f. All the maintenance obligations detailed in the project Covenant, Codes, and Restrictions (CC&R's).
14. Each buyer is to sign an acknowledgment that he/she has read the constitution and bylaws of the Property Owner's Association and the Conditions, Covenants and Restrictions (CC&R's) applying to the development.

15. Common area subdivision improvements and all other subdivision improvements owned or maintained by the property owners' association are subject to review and approval by the City Engineer prior to final map approval. Such improvements include, but are not limited to: private drive aisles; parking areas; paseos; and private utilities. The developer shall bond for these improvements in accordance with FMC 8-1426.
16. The developer shall provide a complete set of construction plans to the Property Owner's Association at the time of its formation.

SUBDIVIDER PLEASE NOTE: The fees, dedications, reservations and/or other exactions imposed on this project are those listed in the foregoing conditions of this tentative tract map approval. The sub-divider is hereby notified that the 90-day period in which the sub-divider may protest these fees, dedications, reservations and other exactions pursuant to Government Code Section 66020(a) begins on the date of approval of this tentative tract map. If the subdivider fails to file a protest within this 90-day period complying with all the requirements of Government Code Section 66020, the subdivider will be legally barred from later challenging such actions.

END OF TENTATIVE TRACT MAP CONDITIONS OF APPROVAL

PRELIMINARY GRADING PLAN CONDITIONS OF APPROVAL:

1. The project shall conform to Exhibit "E" (Preliminary Grading Plan), all conditions of approval set forth herein, and all conditions of approval of Tentative Tract Map 7996 (PLN2008-00177).
2. Approval of the Preliminary Grading Plan shall run concurrent with the approval and subsequent extensions of Tentative Tract Map 7996. Approval of the Preliminary Grading Plan shall terminate upon the expiration of Tentative Tract Map 7996.
3. Approval of the Preliminary Grading Plan does not extend to the final detailed design approval necessary to be accomplished in connection with the development plans.
4. A grading permit issued for the project shall be in accordance with the Grading, Erosion, and Sediment Control Ordinance (Chapter 4, Title VIII of the Municipal Code). All grading shall be subject to the approval of the City Engineer.
5. The applicant shall provide an erosion control plan as part of the project improvement plans, subject to review and approval by the City Engineer. An erosion and sediment control plan shall be included as part of the grading plans.
6. A disposal site for the off-site haul dirt materials or source for the import fill shall be approved by the City prior to the approval of the grading permit. The off-site haul truck route for the excess dirt or import fill shall be subject to the approval of the City Engineer.
7. The applicant shall submit a detailed geotechnical report during building permit plan check. The report shall include recommendations regarding pavement sections for on-site drive aisles, parking

areas and Capitol Avenue and Hastings Street reconstruction. The intersection of Capitol Avenue and Hastings Street has a traffic index (TI) of 8.5. The project plans shall be designed in accordance with the required geotechnical report. Grading shall be supervised by an engineer registered in the State of California to do such work.

8. Grading operations shall be supervised by a registered civil engineer and shall be supervised by the project geotechnical engineer for conformance with the recommendations contained in the project geotechnical report.
9. The Project Geotechnical Engineer shall be retained to review and approve the final grading plans and specifications prior to permit issuance for both on-site and off-site improvements.
10. The developer is responsible for ensuring that all contractors and subcontractors are aware of all storm water quality measures and implement such measures. Failure to comply with the approved construction Best Management Practices will result in the issuance of correction notices, citations, or stop-work orders.
11. The developer shall comply with the City's Urban Runoff Clean Water Program in accordance with the NPDES requirements issued by the State's Water Quality Control Board.
12. Prior to demolition, excavation and grading on any portion of the project site, all underground obstructions (i.e., debris, septic tanks, fuel tanks, barrels, chemical waste) shall be identified and removed pursuant to Federal, State and local regulations and subject to the review and approval by the City's Hazardous Materials Division. Excavations shall be properly backfilled using structural fill, subject to the review and approval of the City Engineer.
13. The minimum drainage slope in vegetated swales shall be 1.5%, when constructed with a sub-drain system. Minimum 2% drainage slope shall be used if no sub-drain is installed. Minimum requirements are subject to revision by the City Engineer upon receipt and review of soil drainage data from the project geotechnical engineer.
14. All retaining walls supporting surcharge shall be reinforced concrete or approved equal. Pressure-treated wood retaining walls (including "kicker boards") will be allowed for retaining walls 12 inches or less in height.
15. The applicant may be allowed grading deviation up to a maximum of one foot (plus or minus) between the preliminary grading plan and the final grading plan. Deviation over one foot may be referred to the Planning Commission, subject to approval of the City Engineer.
16. Prior to final map approval or issuance of a grading permit, the developer shall provide financial guarantees as required by the Subdivision Ordinance or Grading Ordinance. The financial guaranty shall include the cost of backfilling any excavation that is started, but not completed, especially the excavation for the underground parking garage.

END OF PRELIMINARY GRADING PLAN CONDITIONS OF APPROVAL

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**PLANNING COMMISSION MEETING
JANUARY 8, 2009**

Applicant:

**CREEKSIDE LANDING RETAIL - FREMONT BOULEVARD/DIXON
LANDING/I-880 - (PLN2008-00117)**

Proposal:

To consider a Conditional Use Permit, Vesting Tentative Tract Map 7994 with a minor modification, and Preliminary Grading Plan for development of a 487,000 square regional shopping center on 59 acres of a 147-acre site located at the southern terminus of Fremont Boulevard, north of the Dixon Landing interchange and west of Interstate 880 in the Industrial Planning Area. An Environmental Impact Report (EIR) has been prepared and circulated for this project pursuant to the California Environmental Quality Act.

Project Planner - Cliff Nguyen, (510) 494-4769, cnguyen@fremont.gov

Recommended Action:

Continue to a date uncertain.

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PLANNING COMMISSION STAFF REPORT JANUARY 8, 2009

Project:	ST. CHRISTINA ORTHODOX MISSION (PLN2009-00070)
Proposal:	To consider a Conditional Use Permit to allow a religious facility to occupy a vacant $\pm 3,080$ square foot building (a potential historic register resource).
Recommendation:	Approve based on findings and subject to conditions.
Location:	3721 Parish Ave. in the Centerville Planning Area APN: 501-1475-001-00 (See aerial photo on next page)
Lot Size:	0.23 acres ($\pm 10,200$ square feet)
People:	St. Christina Orthodox Mission (Father Michael Anderson), applicant DellaMonica Snyder Architects (John DellaMonica), architect Russell Broussard, property owner Steve Kowalski, Staff Planner, (510) 494-4532; skowalski@fremont.gov
Environmental Review:	Categorical Exemption pursuant to California Environmental Quality Act (CEQA) Guidelines 15301 and 15331 (Minor Alterations to an Existing Building, Historical Resource Restoration/Rehabilitation).
General Plan:	Community Commercial
Current Zoning:	Community Commercial (C-C)

EXECUTIVE SUMMARY:

The applicant is proposing to locate a church in a vacant $\pm 3,080$ square foot building in the Centerville Planning Area. The facility will be used for religious services with a maximum capacity of 70 persons. No changes will be made to the building other than minor repair/rehabilitation of the exterior and the front porch. As part of the project the applicant will be constructing numerous site improvements, including an accessible parking space and ramp, new curb, gutter and sidewalk, and all new landscaping and walkways. Parking for the congregation will be provided off site on a nearby property also owned by the church located at the corner of Parish Avenue and Peralta Boulevard (3612 Peralta Boulevard). Staff recommends that the Planning Commission approve the application based on the findings and subject to the conditions of approval contained in Exhibit "B", attached.

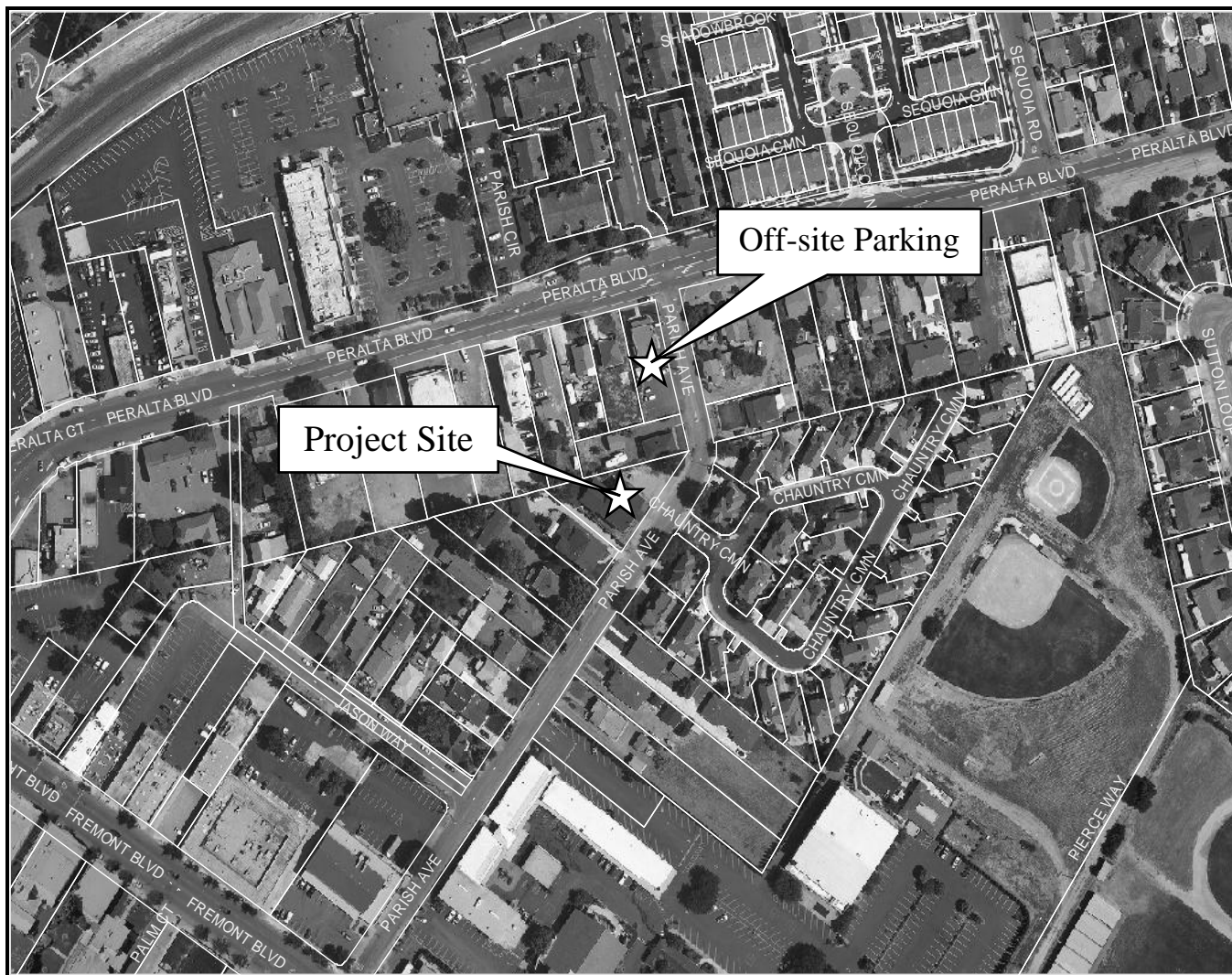


Figure 1: Aerial Photo (2006) of Project Site and Surrounding Area.



SURROUNDING LAND USES:

- North: Single-family dwellings, commercial businesses (C-C)
- South: Single-family dwellings (R-1-6, P District P-90-15)
- East: Single-family dwellings (R-G-19, P District P-90-15)
- West: Single-family dwellings (R-1-6)

BACKGROUND AND PREVIOUS ACTIONS:

The subject building was constructed in 1914 as the home of the Country Club of Washington Township, a woman's suffrage organization. Various social organizations have occupied the building over the years, and a small number of code enforcement actions were required to evict unlawful uses in the recent past. However, there have been no land use entitlements associated with the property since the City began keeping records.

PROJECT DESCRIPTION:

The applicant is proposing to locate a church in a vacant 3,074 square foot building that was originally built in the early 1900's as a lodge for a women's social club. The building will not be enlarged, but the applicant will rehabilitate the interior and exterior, both of which have deteriorated over time, to make it adequate for occupancy by the church. A new single-space accessible parking lot will be constructed on the site to the right of the building, and all new landscaping, walkways and curb, gutter and sidewalk will be provided as part of the project. The building rehabilitation work will consist of the removal of the brick flue and the wooden trellis over the front porch, as well as the addition of a new iron railing along the perimeter of the porch. The applicant will also repair the exterior of the building by removing and replacing damaged siding and trim, and sanding, patching and re-painting the remainder of the exterior. There is a small shed that was added onto the left rear corner of the building that will be removed. There is also a large oak tree at the eastern end of the property adjacent to the house located at 3673 Parish Avenue that will be preserved and incorporated into the new landscape plan for the site.

The church will have fixed seating with a maximum capacity of 70 persons. One accessible parking space will be provided on site to the right of the building, and the congregation will have full-time access to a parking lot capable of accommodating 13 vehicles on a nearby parcel owned by the church approximately 50 feet away at 3612 Peralta Boulevard (see Figure 1, above). Services will be held one weekday evening per week beginning at 7:30, Saturday evenings beginning at 6:00, and Sundays from approximately 9:00 AM until 1:00 PM. Additional services will also occur on certain holy days and during the spring on Wednesdays from approximately 7:00 PM to 9:00 PM.

PROJECT ANALYSIS:

General Plan Conformance

The General Plan land use designation for the project site is Community Commercial. This land use designation is intended to provide primarily for community-serving retail and service uses, while allowing for various institutional uses such as churches and hospitals. The following General Plan Land Use and goals and policies are applicable to the proposed project:

- **Fundamental Land Use Goal F8** – *A diversity of residential, recreational, cultural, employment and shopping opportunities.*

- **Fundamental Land Use Goal F13** – *Vital connections between the history and heritage of the community and everyday life.*
- **Land Use Policy 2.15** – *Community Commercial developments shall provide safe, convenient and continuous pedestrian walkways linking building entrances to street sidewalks and crossings, and linking building entrances to adjacent building entrances and activity centers where appropriate.*

Analysis

The site was originally developed as a social hall for a women's suffrage group in the early 1900's, therefore the proposed re-use of the building as a church would provide a link to the original purpose of the building. The applicant will be rehabilitating the building and site in a way that will respect and preserve the heritage of the property consistent with Fundamental Goal F13. The proposal will also provide new walkways and landscaping on the site, as well as new curb, gutter and sidewalk across the property's frontage along a stretch of road that is currently unimproved, thereby creating a safer and more convenient environment for pedestrians.

Centerville Specific Plan Conformance

The Centerville Specific Plan was adopted by the City Council to guide the redevelopment of the Centerville historic commercial area located around the intersection of Fremont and Peralta Boulevards. The subject site is located within Subarea 9 of the Specific Plan, the commercial and residential area on and adjacent to Peralta Boulevard east of Fremont Boulevard. One of the primary goals of the Specific Plan is the revitalization of the district through the preservation and reuse of the older buildings in the area. Not only will the proposal rehabilitate a 95-year old structure, it will also install much-needed streetscape improvements along Parish Avenue; thereby helping make the street more pedestrian-friendly.

Zoning Analysis

Religious Facilities: Section 8-22145 of the Municipal Code (Hospitals, Religious Facilities or Eleemosynary Institutions) only allows religious facilities on lots no smaller than 2 acres in size, or no smaller than 1 acre if certain conditions are met. The subject property only measures 0.23 acres; therefore the proposed use will be non-conforming with regard to the provisions of Section 8-22145.

The building was originally built as a lodge for a membership organization in the early 1900's before current zoning laws were in place, and it has been occupied by various membership organizations without benefit of a conditional use permit ever since. However, because it was used legally as a lodge at a time predating current zoning laws, the use of the building by membership organizations is considered to be legally non-conforming. Section 8-22303(b) of the Municipal Code (Nonconforming Uses of Structures or Buildings) allows the non-conforming use of a structure to be changed to a similar use subject to approval of a conditional use permit by the Planning Commission. A religious facility is similar to a membership organization in that it is only occupied and in operation during certain times of the week and is comprised of a finite number of members which is limited by the maximum occupancy permitted the structure by current building codes. As such, it is staff's opinion that the proposed use,

though non-conforming due to lot size, can be supported because it is similar in nature to the use that the property was originally developed for and has housed over the years.

Conditional Use Permit: The project site is zoned Community Commercial (C-C). Pursuant to Section 8-21103 of the Zoning Ordinance, religious institutions (defined as “quasi-public uses”) are permitted in the C-C zone subject to approval of a conditional use permit by the Planning Commission. In addition, the non-conforming use of a property may be changed to a similar use only upon approval of a conditional use permit by the Planning Commission. In order to approve a conditional use permit the Commission must make the following findings:

- (a) The proposed use is consistent with the General Plan;
- (b) The site is suitable and adequate for the proposed use;
- (c) The proposed use and design would not have a substantial adverse effect on vehicular (including bicycle) or pedestrian circulation or safety, on transit accessibility, on the planned level of service of the street system or on other public facilities or services;
- (d) The proposed use would not have a substantial adverse economic effect on nearby uses;
- (e) The proposed use would not be detrimental to the general welfare of persons residing in the immediate vicinity, the neighborhood, or the community at large;
- (f) If applicable, the design of the project is compatible with existing and proposed development in the district and its surroundings; and
- (g) The project will comply with the provisions of Article 27 of the Zoning Ordinance (Site Plan and Architectural Approval).

It is staff's opinion that the above findings can be made for the following reasons. The proposal is consistent with the General Plan for the reasons discussed in the “General Plan Conformance” section above. As mentioned earlier, the site was originally developed as a social club in the early 1900's and a small church would be similar in nature to such a land use. While the site is unable to accommodate the required off-street parking, the church owns a lot nearby that will have adequate parking to satisfy the requirements for the congregation.

The applicant will be required to install full frontage improvements across the property; therefore, the project will help to improve vehicular and pedestrian/bicycle safety by providing a sidewalk and curb where none currently exist. In addition, the traffic generated by the proposed use will not adversely impact the road network of the surrounding area in that the church will only hold services on weekends and weekday evenings after the PM peak hour has ended. A church will not have an adverse economic impact on other uses in the area in that it does not engage in the retail sale of goods or services or compete with other businesses for clientele.

Finally, the project will not be detrimental to the surrounding neighborhood or city as a whole in that it will replace a legally non-conforming use and improve a substandard property by adding numerous site improvements including new sidewalk, curb and gutter, paved parking and landscaping, and by rehabilitating the exterior of a dilapidated structure. The improvements will comply with the City's Street Improvement Ordinance and be designed in a manner so as to tie into future improvements on the adjacent properties, and the project will comply in all other aspects with the regulations of Article 27 of the Zoning Ordinance.

Architecture:

The building was originally constructed in 1914 in the form of a Craftsman Style bungalow with a pitched roof having a single, primary ridge beam and gable ends, horizontal clapboard siding, and wood trim around the windows and doors. A false brick chimney was added to the façade at a later date to serve as a flue for an interior gas furnace, and a post-and-beam framework was used to replace the original front porch pergola. While the roof is relatively new, portions of the siding and trim are in need of repair and/or replacement. The applicant is proposing to repair the siding and trim, remove the false chimney and post-and-beam framework from the porch and enclose it with a new decorative iron railing, and add an accessible ramp leading up to the porch that will be concealed behind a low brick wall (see Exhibit "A" – Parish Avenue Elevation). A small storage shed that was added onto the left rear corner of the building will also be removed. No other exterior modifications are proposed.

The site was identified during the City's historic resource survey conducted in March of 2000 and subsequently a State of California Department of Parks and Recreation Primary Record form was completed for the property which deemed it eligible to be listed as a historic resource; therefore, pursuant to Section 8-219119 of the Municipal Code, review of the proposed plans by the City's Historical Architectural Review Board (HARB) was required. HARB reviewed the proposal through the expedited review process for minor alterations in accordance with Municipal Code Section 8-219125 and did not have any comments.

Parking:

The church will have fixed seating with a maximum capacity of 70 persons. The parking requirements for a religious assembly use are one (1) space for each 5 fixed seats; therefore the proposed use requires a total of 14 spaces. Because the property is oddly-shaped and dominated by the existing building, there is little room for parking on site when setbacks and maneuvering areas are factored in. The California Building Code requires that the first of any parking spaces provided on the site be accessible to individuals with disabilities. Because of this, the applicant is only able to provide one accessible space on the site.

However, the congregation will have full-time access to a parking lot capable of accommodating 13 cars on a nearby parcel located at the corner of Parish Avenue and Peralta Boulevard that is also owned by the church (3612 Peralta Blvd). Section 8-22005 of the Zoning Ordinance allows off-site parking to satisfy the parking requirements as long as it is located within 700 feet of the site and is available for use by the patrons during the proposed hours of operation. In this case, the off-site parking is located on a parcel approximately 50 feet away from the site on land owned by the church and will be made available for exclusive use by the congregation during all church services. Currently, the congregation consists of

approximately 40 members; therefore, there is both ample space within the building and sufficient parking at the off-site lot to allow the church to reach the maximum building occupancy.

Access/Circulation:

The site is currently unimproved for vehicular access, with only gravel parking areas in front and to the right of the building. The applicant will be required to construct a new driveway and a paved accessible parking space to the right (north) of the building, as well as full frontage improvements including a monolithic sidewalk across the property. In addition, a new accessible path and ramp will be provided from the sidewalk leading up to the front porch. The parking lot is only large enough for a single space and the property is surrounded by residential development, therefore landscaped setbacks are required to be provided along the property lines. As such, there are no opportunities for future connectivity to the adjacent parcels, and direct access to the site will be limited to pedestrians and users of the accessible parking stall.

Landscaping:

The property currently contains little formal landscaping other than some shrubs planted along the front of the building, landscaping in a small back yard behind the building, and a large oak tree located in the gravel portion of the lot near the eastern corner of the site. As part of the site improvements, the applicant will be providing new landscaping throughout the site, including lawn areas and trees, as well as planters along the back of the sidewalk. The large oak will be preserved and incorporated into the landscape plan within one of the new lawn areas surrounding the parking lot.

Street Right-of-way Improvements:

Parish Avenue is a residential street with a right-of-way width of 50 feet. As a condition to the use of the lot, the applicant will be required to dedicate 5 feet of right-of-way and install complete street improvements up to the centerline of the street across the entire project frontage. Street improvements include, but are not limited to, a 5-foot wide monolithic sidewalk, curb, gutter, street pavement, relocation of the joint utility pole, and utilities.

Urban Runoff Clean Water Program:

The Alameda Countywide National Pollution Discharge Elimination System (NPDES) Municipal Stormwater Permit requires all new development to incorporate measures to prevent pollutants from being conveyed in stormwater runoff into the public storm drain system and to control erosion during construction. This project is required to comply with the NPDES permit by incorporating Best Management Practices (BMPs) for erosion control and stormwater treatment into the project design. BMPs include, but are not limited to, disconnecting downspouts and discharging them into landscaped areas and installing fiber rolls around the perimeter of all construction areas.

Environmental Review:

Staff has determined that the project qualifies as Class 1 and Class 31 Categorical Exemptions pursuant to Sections 15301 and 15331 of the California Environmental Quality Act (CEQA) Guidelines. The proposal involves the use of an existing structure with no changes to the building or site other than the rehabilitation of the exterior and the construction of site improvements to bring the site into compliance with current building, zoning and fire codes. In addition, all work performed will be consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties.

PUBLIC NOTICE AND COMMENT:

Public hearing notification is required for the entitlements being requested. A total of 1,246 notices were mailed to the owners and occupants of all properties within 1,000 feet of the site. A 1,000-foot radius is required because the project site is located within the Centerville Specific Plan District and Redevelopment Area. The notices were mailed out on Wednesday, December 24, 2008. A Public Hearing Notice was also published in The Tri-City Voice on this same date. In addition, the applicant held a neighborhood meeting on Sunday, November 30, 2008 which was attended by 6 people.

EXHIBITS:

Exhibits:

Exhibit "A"	Project Plans
Exhibit "B"	Findings and Conditions of Approval

Informational Items:

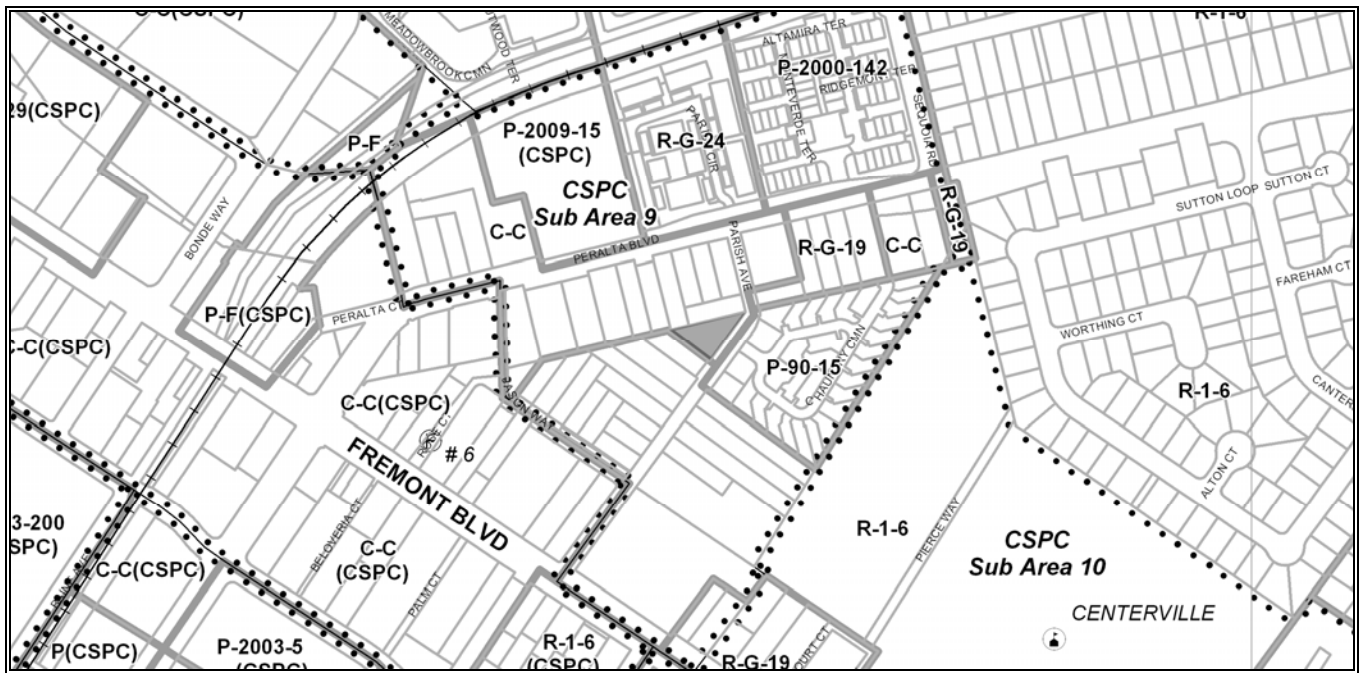
1. Project Operations Statement from Applicant
2. State of California Department of Parks and Recreation Primary Record

RECOMMENDATION:

1. Hold public hearing.
2. Find that the project is categorically exempt from environmental review pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15301 (Minor alteration of an existing structure) and 15331 (Historic Resource Restoration/Rehabilitation).
3. Find PLN2009-00070 as shown in Exhibit "A" is in conformance with the relevant provisions contained in the City's existing General Plan. These provisions include the designations, goals and policies set forth in the Land Use Element of the General Plan, as enumerated within this staff report.
4. Approve PLN2009-00070 as shown in Exhibit "A" based on the findings and subject to the conditions of approval attached as Exhibit "B".

Existing Zoning

Shaded Area represents the Project Site



Existing General Plan

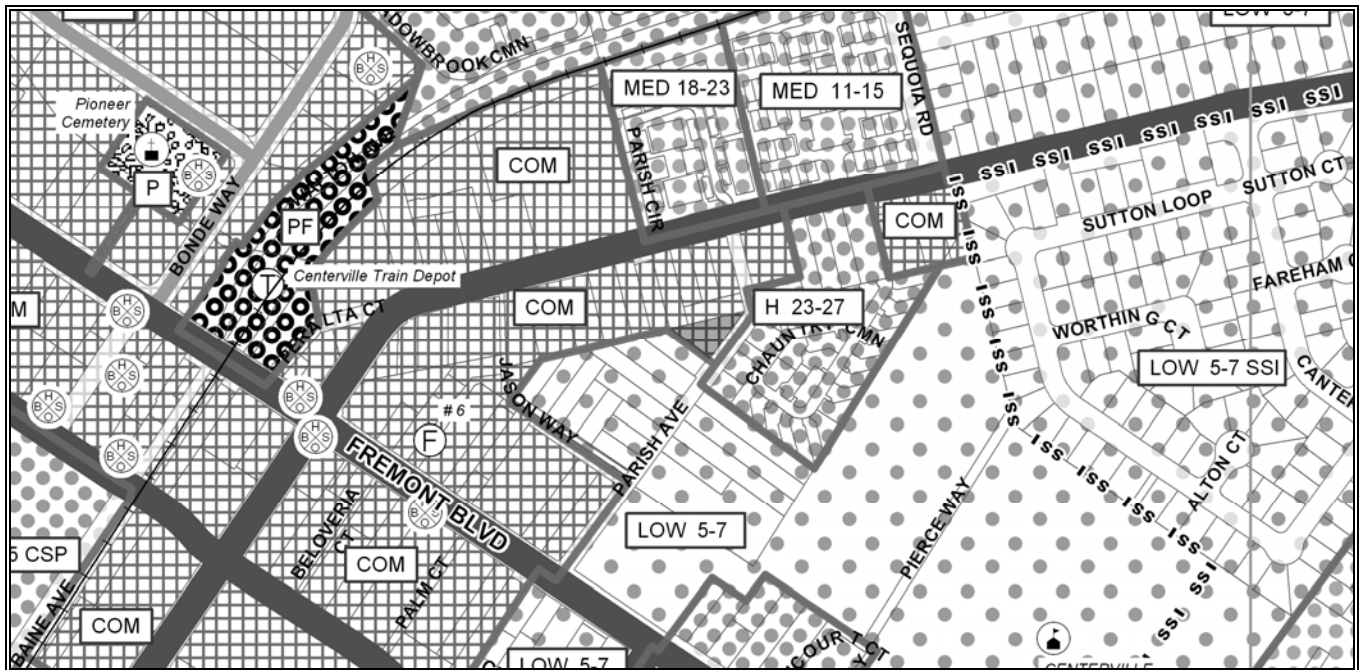


Exhibit "B"
PLN2009-00070
St. Christina Orthodox Mission Findings and Conditions of Approval
Conditional Use Permit

FINDINGS:

The findings below are made on the basis of information presented at the public hearing and contained in the staff report to the Planning Commission dated January 8, 2009, incorporated hereby:

Conditional Use Permit:

- (a) The proposed use is consistent with the General Plan in that the applicant will rehabilitate the building and site in a way that will respect and preserve the historic heritage of the property and will also provide new walkways and full street improvements where none currently exist, thereby creating a safer and more convenient environment for pedestrians;
- (b) The site is suitable and adequate for the proposed use in that it was originally developed as a social club in the early 20th century, and a small church would be similar in nature to such a use. In addition, the applicant will make site improvements including providing paved parking, street improvements and a drainage system to comply with current standards;
- (c) The proposed use and design would not have a substantial adverse effect on vehicular (including bicycle) or pedestrian circulation or safety, on transit accessibility, on the planned level of service of the street system or on other public facilities or services in that the applicant will install full frontage improvements across the property, thereby helping to improve vehicular and pedestrian/bicycle safety by providing a sidewalk and curb where none currently exist. Furthermore, the proposed use will not generate significant volumes of traffic during the A.M. and P.M. peak hour times when the roadway system is busiest since services will only be held on Saturdays, Sundays and one weekday evening at approximately 7:30 P.M.;
- (d) The proposed use would not have a substantial adverse economic effect on nearby uses in that it will not offer retail sales of good or services that would compete against other businesses in the area;
- (e) The proposed use would not be detrimental to the general welfare of persons residing in the immediate vicinity, the neighborhood, or the community at large in that it will improve a legally non-conforming, substandard property by adding numerous site improvements consistent with current standards including new sidewalk, curb and gutter, paved parking and landscaping, and by rehabilitating the exterior of a dilapidated historic building; and
- (f) The project will comply with the provisions of Article 27 of the Zoning Ordinance (Site Plan and Architectural Approval) in that the required improvements will be constructed in conformance to City standards and the project will comply with all requirements of the Community Commercial zoning district.

CONDITIONS OF APPROVAL:

Planning Division

1. The approval of this conditional use permit shall conform to Exhibit "A" (Project Plans) and all the conditions of approval set forth herein, and shall allow a religious facility with a maximum of 70 members in the main worship area.
2. Minor modifications to the Conditional Use Permit may be made subject to review and approval of the Planning Director if such modifications are in keeping with the intent of the original approval. However, the Planning Director may refer any modification to the Planning Commission when the Director feels the request is of such a nature that it warrants consideration by the Planning Commission.
3. Final plans for the project shall be submitted to the Development Organization for review and approval to ensure compliance with relevant codes, policies and other requirements of the Fremont Municipal Code, these conditions of approval, and any other associated approvals.
4. This Conditional Use Permit is being granted based on the provision of a minimum of 13 off-site parking spaces at the property located at 3612 Peralta Boulevard. If said parking becomes unavailable for use by the church for any reason, the Conditional Use Permit may be subject to revocation unless the applicant is able to secure the rights to use at least 13 parking spaces on another site not more than 700 feet away from the subject property during its hours of service. If said parking is under separate ownership, then both parties shall enter into and submit a legal agreement to the satisfaction of the City Attorney guaranteeing that the parking shall be maintained for use by the church so long as the church is in existence or unless it is provided elsewhere in accordance with the provisions of Article 20 of the Zoning Ordinance.
5. The applicant shall install a new 6' tall wood fence along both side property lines wherever no such fencing currently exists, and replace any dilapidated/damaged fencing to match the new fencing.
6. Ramp and porch walls visible from the street shall be brick-faced as shown on the Parish Avenue Elevation in Exhibit "A".
7. All railings and any necessary guardrails shall be constructed of wood so as to integrate with the original design elements of the building.
8. Hours of operation shall be limited as follows:
 - a. Weekdays from 6:00 PM to 10:00 PM
 - b. Saturdays from 9:00 AM to 10:00 PM
 - c. Sundays & Holidays from 9:00 AM to 9 PM

9. A note shall be placed on the cover sheet of the final construction plans limiting all construction and demolition activities to the following hours. Failure to comply with these hours will result in the withholding of building inspections.
 - a. Monday-Friday from 7 AM to 7 PM
 - b. Saturdays & Holidays from 9 AM to 6 PM
 - c. No construction activities allowed on Sundays.
10. The conditions of approval as well as a Conditional Use Permit Certificate issued after successful compliance with the conditions herein shall be kept on the premises and made available to any officer/employee of the City upon request.
11. If the Planning Director finds evidence that conditions of approval have not been fulfilled or that the use or uses has or have resulted in a substantial adverse effect on the health, and/or general welfare of users of adjacent or proximate property, or have a substantial adverse impact on public facilities or services, the Planning Director may refer the Conditional Use Permit to the Planning Commission for review. If, upon such review, the Commission finds that any of the results above have occurred, the Planning Commission shall modify or revoke the approval of the membership organization.

Engineering Division

1. The applicant shall dedicate right-of-way and install complete street improvements for Parish Avenue across the project frontage. Parish Avenue is a residential street, with a right-of-way width of 50 feet and a pavement width of 40 feet. Street improvements include, but are not limited to, five-foot wide monolithic sidewalk, curb, gutter, pavement, relocation of the joint utility pole, and utilities.
2. Should the timing of the utility pole relocation be delayed due to the schedules of the utility companies, temporary improvements may be permitted to allow the existing pole to remain until such time the utility companies are able to relocate the pole, subject to determination and approval by the City Engineer.
3. A minimum six-foot wide public service easement (PSE) shall be dedicated along the Parish Avenue frontage of the project. Final width and alignment of the PSE shall be subject to the approval of the City Engineer.
4. Precise geometry and location of all driveways shall be subject to the approval of the City Engineer.
5. The applicant shall apply for and obtain an encroachment permit for all improvements within the public right-of-way. The encroachment permit and building permit for the building/site improvements shall be issued concurrently.

6. The applicant shall submit street improvement plans, which shall be subject to approval of the City Engineer for all proposed work within the right-of-way. In accordance with the Street Right-of-Way Ordinance, the applicant shall execute an Improvement Agreement and submit plat and legal description for the right-of-way dedication.
7. The applicant shall provide for a functional system to control erosion and siltation during and after grading subject to review and approval by the City Engineer. An erosion and sediment control plan shall be included as part of the plans.
8. Site grading shall not obstruct natural flow from abutting properties or divert drainage from its natural watershed.

Landscape Architecture Division

1. The design of the project shall conform to all provisions of the City of Fremont Landscape Development Requirements and Policies (LDRP) and the following additional conditions:
2. The existing 18" diameter Coast Live Oak tree shall be preserved. The landscape design, including the layout and construction details of the fencing shall take into careful consideration the successful preservation of this tree. The City may elect to perform an arboricultural analysis or a peer review of the construction drawings at any time at the applicant's expense.
3. All above ground utilities shall be screened from view.
4. Incorporate as part of the landscape design one Crape Myrtle tree to be located in the planter left of the front doorway and centered between the two windows.
5. Planting and irrigation plans shall provide utility information as a screened back layer to show the location of all utilities and their appurtenances including water, stormwater, electrical, cable, sewer, lighting and gas. Identify all easements. Coordinate utility plans and proposed tree locations and adjust to eliminate conflicts.
6. A minimum of 75% of trees and shrubs shall be climate-adapted plants that only require occasional or infrequent watering. Plants shall be selected to be well suited to the space available and to require minimal pruning and maintenance once established. High water-use planting areas shall be limited to less than 25% of the total planting areas.
7. All planting areas containing trees shall be free of all Utility Structures (including light standards) and other built features consistent with the spacing of City Standard Detail LSD-5, City Standard Street Tree Clearances.
8. The landscape design shall meet current Best Management Practices for sustainable environments. Pavement, fencing and other landscape site improvements shall be constructed of durable, rot resistant and sustainable materials. Trees and shrubs shall be selected to be well suited to the space available, and to require minimal pruning and maintenance once established. Irrigation

system shall be designed to conserve water per the “Turf and Landscape Irrigation Best Management Practices” handbook, by the Irrigation Association – Water Management Committee.

9. Exterior light fixtures shall be selected to compliment the historical character of the building and shall not exceed 35 watts. The lights shall include house-side shields to reduce unwanted glare onto the adjacent residences. The lighting plan shall be coordinated with the planting plan so that there are no conflicts between the placement of trees and lights. The lighting plan shall indicate the type of lighting fixtures, their heights, intensity and direction.

Fire Department

1. A Fire Department driveway access serving structures 35 feet or less in height shall have a minimum 20-foot unobstructed linear width. These driveways/access roads shall be designated as Fire Lanes and shall meet Fire Department standards for surface type, distance, weight loads, turn radius, grades, and vertical clearance.
2. The property address must always be visible from the public street.
3. The applicant shall have a key box (Knox brand) located outside of all buildings/gates and provide keys to the Fire Department for access purposes. Applications can be obtained at the Fire Department Administration office located at 3300 Capitol Avenue.
4. The occupant load shall not be greater than the calculations determined in the 2007 California Fire Code (CFC) for assembly use. An assembly permit will be required at time of occupancy.
5. The applicant shall install a Manual Fire alarm system as required per 2007 CFC Section 907.
 - a. The system must be monitored with each device and panel function distinctively and descriptively annunciated by an address or a zone.
 - b. Signals must be sent to the FACU, annunciator and the central station for alarm, supervisory and trouble signals.
 - c. See Fire Department Standard 25A for additional installation details.
6. A Type 1 hood shall be installed at or above all commercial cooking appliances and domestic cooking appliances used for commercial purposes that produce grease vapors.
7. It is highly recommended that the applicant install an N.F.P.A. 13 fire sprinkler system. Contact the fire plan check reviewer or Fire Marshal’s office if further discussion is needed.
8. All systems installations and modifications require plan submittal, approval and permits with appropriate inspections.

9. The applicant shall meet all requirements of the currently adopted edition of the California Building, Fire and City of Fremont Municipal Codes in effect at the time of building permit/business license application.
10. The applicant must immediately notify the Fremont Fire Department, Hazardous Materials Unit of any underground pipes, tanks or structures; any suspected or actual contaminated soils; or other environmental anomalies encountered during site development activities. Any confirmed environmental liabilities will need to be remedied prior to proceeding with site development.

Environmental Services Division

1. This project will generate debris that must be recycled, including scrap metal, wood, and asphalt/concrete.
2. The applicant may contract with any recycling company licensed to do business in Fremont for salvage or recycling of separated construction and demolition materials. Separated material destined for recycling may not contain more than 10% by weight of solid waste or other non-recyclable material.
3. Plant and tree debris should not be mixed with other wastes. Plant and tree debris should be chipped on site or taken to a grinding/composting facility.
4. The contractor must ensure that municipal solid waste (trash) is removed from the site by one or more of the following ways:
 - a. Contacting the City's franchised waste hauler, Allied Waste Services, to arrange for use of debris boxes for all municipal solid waste to be landfilled;
 - b. Removal from the premises by the construction or demolition contractor (using their own equipment and vehicles) as part of a total construction, remodeling or demolition service offered by that contractor.
5. Municipal solid waste collection service is required for all occupied commercial/institutional properties, and is provided by Allied Waste Services (AWS) on an exclusive franchise basis. Contact AWS at (510) 657-3500 to arrange for garbage service.

END OF CONDITIONS

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PLANNING COMMISSION STAFF REPORT JANUARY 08, 2008

Project:	INKIES TATTOO SALON - (PLN2009-00081)
Proposal:	To consider a Conditional Use Permit for a tattoo salon.
Recommendation:	Approve, based on findings and subject to conditions.
Location:	37485 Fremont Boulevard in the Centerville planning area. APN 501-0536-025-03 (See aerial photo next page)
Area:	The existing commercial building is 5,356 square feet and the applicant is proposing to occupy a 1,300 square foot ground floor unit within the building.
People:	Robert Arquero, Applicant Jung & Chia-Fu Cheng, Owner Spencer Shafsky, Staff Planner (510) 494-4452; sshafsky@fremont.gov
Environmental Review:	This project is categorically exempt from review under CEQA pursuant to Section 15301, Existing Facilities
General Plan:	Community Commercial
Zoning:	Community Commercial, Centerville Specific Plan

EXECUTIVE SUMMARY:

The applicant has submitted an application for a Conditional Use Permit to open a tattoo salon in a tenant space within an existing commercial building. The business will consist of four employees providing high-end custom tattoo services. The proposed hours of operation are Wednesday through Sunday from 1:00 p.m. to 10:00 p.m.

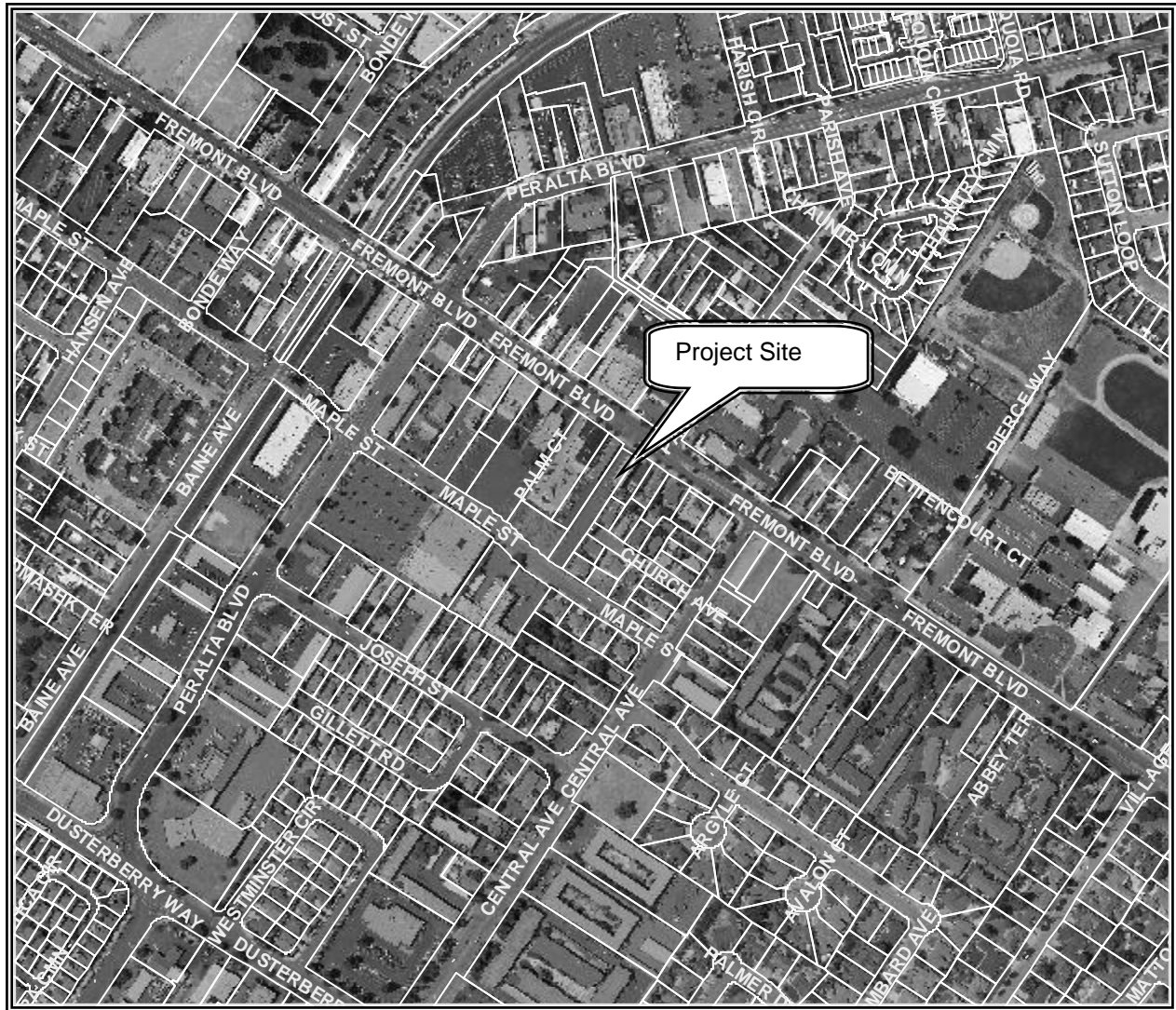


Figure 1: Aerial Photo (2006) of Project Site and Surrounding Area.



SURROUNDING LAND USES:

- North: Commercial Office Buildings
- South: Commercial Office Buildings and Residential
- East: Commercial Office Buildings
- West: Commercial Office Buildings and Residential

BACKGROUND AND PREVIOUS ACTIONS:

The proposed location is a tenant space within an existing building. The building was originally constructed in 1971 and has contained a variety of commercial uses including real estate companies, a security company and a day spa.

PROJECT DESCRIPTION:

The applicant is applying for a Conditional Use Permit to operate “a high-end custom tattoo studio (specializing in Asian, Americana, and Polynesian art) that will provide creative and artistic services in an upscale salon style environment.” The proposed operating hours are Wednesday through Sunday from 1:00 p.m. to 10:00 p.m. The business will provide tattoo services and limited retail including t-shirts, hats and tattoo care products. The applicant intends to make minor interior changes to the walls and rooms.

PROJECT ANALYSIS:

General Plan Conformance:

The existing General Plan land use designation for the project site is Community Commercial. The proposed project is consistent with the existing General Plan land use designation for the project site because the Community Commercial District allows a variety of personal services as permitted uses as well as selected personal service uses as Conditional Uses, such as tattoo parlors. The following General Plan Goals, Objectives and Policies are applicable to the proposed project:

LAND USE GOAL 2: Commercial development focused in well defined commercial areas.

Analysis: The proposed location is within an existing commercial building along Fremont Boulevard that is a well defined commercial area and is surrounded by a variety of commercial uses.

Policy LU 2.11: The following list of allowed uses for Community Commercial Centers is descriptive rather than fully inclusive. Other uses may be allowed which achieve the intent of the plan as described in the Goals and Objectives and in the design and development policies.

Analysis: “All local-serving commercial services are generally allowed including those related to finance, real estate, insurance, business services, home services, personal services and others.” The tattoo salon falls under the personal services category and is consistent with the General Plans’ land use designation.

Zoning Regulations:

As set forth in Section 8-21103 (bb) of the Fremont Municipal Code (FMC), tattoo parlors are allowed in the C-C district subject to a Conditional Use Permit.

Parking:

This project meets the parking requirements. Fremont Municipal Code (FMC) Sec. 8-22003 (3) (b) states that the parking requirements for personal services is one parking space for every 300 square feet of service area. The proposed location is 1,300 square feet and therefore would require four parking spaces. The existing parking lot has 29 standard parking spaces and four handicapped parking spaces, which is adequate for the proposed use.

Applicable Fees:

This project is not subject to development fees as there is no proposed change in use or new development.

Environmental Review:

This project is categorically exempt from review under CEQA pursuant to Section 15301, Existing Facilities

PUBLIC NOTICE AND COMMENT:

Public hearing notification is applicable. A total of 970 notices were mailed to owners and occupants of property within 1,000 feet of the site. The notices to owners and occupants were mailed on December 23, 2008. A Public Hearing Notice was published by *The Tri-City Voice* on December 24, 2008.

ENCLOSURES:

<i>Exhibits:</i>	Exhibit "A"	Site Plan, Floor Plan
	Exhibit "B"	Findings and Conditions of Approval

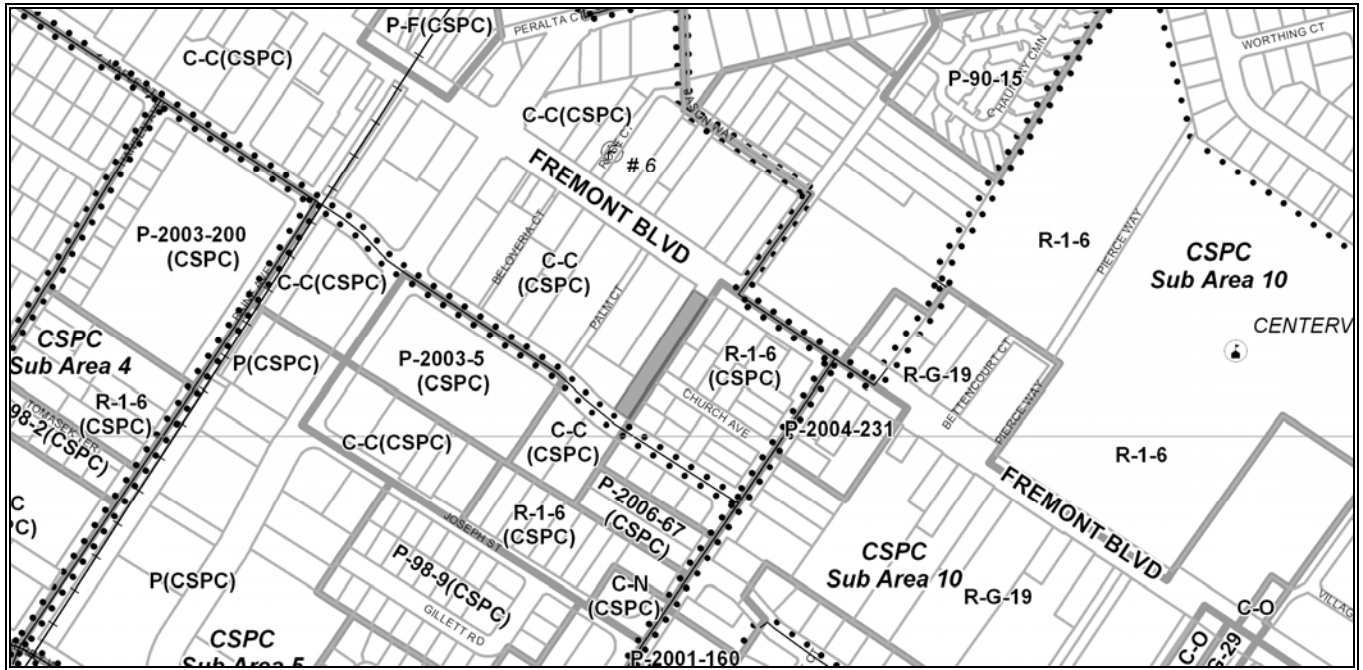
Informational Items: Informational 1 Applicant letter of proposed operations.

RECOMMENDATION:

1. Hold public hearing.
2. Find that the project is categorically exempt from the California Environmental Quality Act (CEQA) under Sec. 15301, Existing Facilities.
3. Find Conditional Use Permit PLN2009-00081 is in conformance with the relevant provisions contained in the City's existing General Plan. These provisions include the designations, goals, objectives and policies set forth in the General Plan's Land Use Chapter as enumerated within the staff report.
4. Recommend that the Planning Commission approve Conditional Use Permit PLN2009-00081, as shown on Exhibit "A", subject to findings and conditions in Exhibit "B".

Existing Zoning

Shaded Area represents the Project Site



Existing General Plan

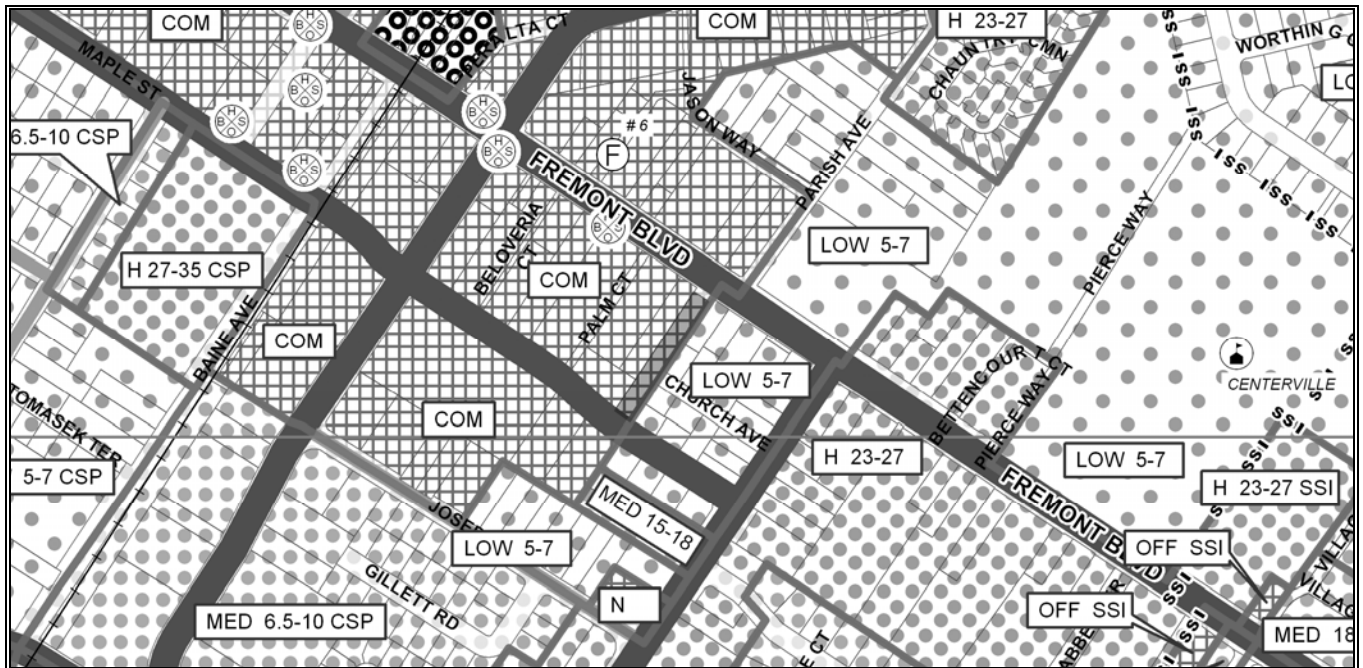


EXHIBIT "B"
Findings and Conditions of Approval
For PLN2009-00081, Inkies Tattoo Salon Conditional Use Permit
37485 Fremont Boulevard #A

FINDINGS:

The findings below are made on the basis of information presented at the public hearing and contained in the staff report to the Planning Commission dated January 08, 2009, incorporated hereby.

Conditional Use Permit Findings:

- a. The proposed use is consistent with the general plan because tattoo parlors are allowed in the Community Commercial district with the approval of a Conditional Use Permit.
- b. The site is suitable and adequate for the proposed use because it is a fully developed commercial site with street improvements and adequate parking.
- c. The proposed use and design would not have a substantial adverse effect on vehicular (including bicycle) or pedestrian circulation or safety, on transit accessibility, on the planned level of service of the street system or on other public facilities or services because sufficient parking is provided and points ingress and egress are properly located.
- d. The proposed use would not have a substantial adverse economic effect on nearby uses because the use would not compete economically with nearby uses.
- e. The proposed use would not be detrimental to the general welfare of persons residing in the immediate vicinity, the neighborhood or the community at large because the use will occur indoors.

CONDITIONS OF APPROVAL:

General Conditions (Must be satisfied on an on-going basis.)

- A-1. Conformance with Exhibit "A".
- A-2. The applicant shall permit on-site inspections to determine compliance with conditions of approval.
- A-3. The hours of operation shall be limited to 8:00 p.m. to 10 p.m. Wednesday through Sunday.
- A-4. Prior to occupancy, the applicant shall comply with requirements of the California Building Code and local amendments for the building occupancy. A separate building permit shall be obtained from the Building Department for any interior tenant improvements.
- A-5. The applicant shall apply for a separate permit for exterior signage.

- A-6. No trespassing/loitering signs shall be posted at entrances of parking lots and other pedestrian access points with letter of enforcement on file with the Police Department.
- A-7. All entrances to parking areas shall be posted with appropriate signs per 22658 (a) VC to assist in the removal of vehicles at the property owners/managers request.
- A-8. The parking lots, driveways, passageways, recesses and grounds contiguous to building shall be provided with enough lighting of sufficient wattage to provide adequate illumination to make clearly visible the presence of any person on or about the premises during the hours of darkness and provide a safe secure environment.
- A-9. The address shall be clearly visible from the front and rear.
- A-10. If the Planning Director finds evidence that the Conditions of Approval have not been fulfilled or that the use or uses have or have resulted in a substantial adverse effect on the health, and/or general welfare of uses of adjacent or proximate property, or have a substantial adverse impact on the public facilities or services, the Director may refer this approval to the Planning Commission for review. If, upon such review, the Commission finds that any of the results stated above have occurred, the Commission may modify or revoke this approval.

END OF CONDITIONS

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PLANNING COMMISSION STAFF REPORT JANUARY 8, 2009

Project:	SUMMERHILL HOMES TRACT 7836 EXTENSION-(PLN2009-00129)
Proposal:	To consider an extension in time for a previously approved Vesting Tentative Tract Map 7836 (VTM 7836) to subdivide a parcel into two lots for eventual development into a mixed use project.
Recommendation:	Approve, subject to original findings and conditions.
Location:	3651 Walnut Avenue in the Central Business District. APN: 501-1130-048-01 (See aerial photo next page)
Area:	4.13 acres
People:	Daniel M Deibel, Applicant Urban Housing Downtown Fremont, LLC; Owner Susan H. Summerford, Staff Planner (510) 494-4543; ssummerford@fremont.gov
Environmental Review:	A Mitigated Negative Declaration was previously circulated and adopted for the original project.
General Plan:	Central Business District Institutional Open Space
Zoning:	P-2005-256
Existing Land Use:	Vacant

EXECUTIVE SUMMARY:

The applicant requests a time extension for Vesting Tentative Tract Map 7836. In early 2006, the Planning Commission recommended and the City Council approved an amendment to the Central Business District Concept Plan to allow for the development of housing in the Central Business District. On November 16, 2006 the Planning Commission recommended approval and on December 5, 2006 the City Council approved Vesting Tentative Tract Map 7836. The applicant is requesting the one-year extension for additional time to comply with the conditions of the approved tentative map. Staff recommends the Planning Commission approved the proposed one-year extension to December 5, 2009, in accordance with the Subdivision Map Act.

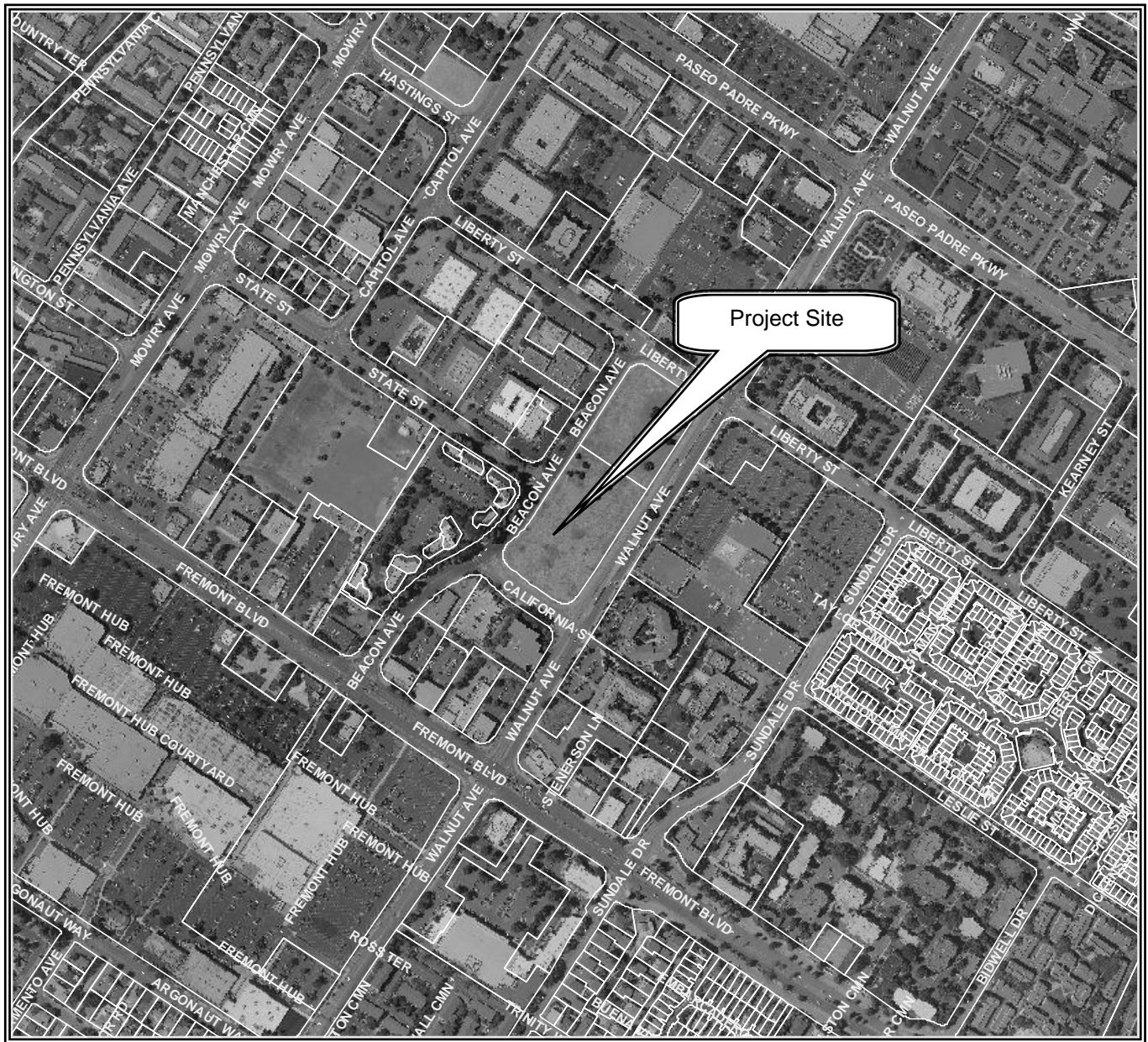


Figure 1: Aerial Photo (2002) of Project Site and Surrounding Area.



SURROUNDING LAND USES:

- North: Commercial
- South: Commercial/Assisted Living Facility
- East: Commercial
- West: Commercial

BACKGROUND AND PREVIOUS ACTIONS:

The project site is located in the City's Central Business District (hereinafter, "CBD") as established in the 1991 General Plan. The subject site is currently vacant, and is bounded by Beacon, Walnut, and California Streets. The project includes a proposal to bifurcate the site, allowing for the continuation of State Street through the site, creating a separation of the proposed residential and commercial uses. Various commercial and office uses surround the parcel, which has good access to major thoroughfares Fremont Boulevard and Paseo Padre Parkway.

In early 2006, on recommendation of the Planning Commission, the City Council approved an amendment to the CBD Concept Plan to allow for residential uses in the CBD. November 16, 2006, the Planning Commission recommended and on December 5, 2006, the City Council approved P-2005-256. This entitlement was for a General Plan Land Use Amendment for the proposed civic park that is a component of the project; a Precise and Preliminary Planned District for the P-district; Site Plan and Architectural Approval; Preliminary Grading Plan; and Vesting Tentative Tract Map 7836.

On December 5, 2008, the applicant requested a one year extension in time for Vesting Tentative Tract Map 7836.

PROJECT DESCRIPTION:

The applicant seeks an additional one-year extension to Tentative Tract Map 7836 to subdivide a 4.13 acre site into two parcels for eventual construction of a mixed use development project, separated by a new extension of an existing public street, State Street. Residential development will occur on the southern end of the site, while the commercial component will be located on the northern end. The applicant is seeking an extension in order to have additional time to comply with the conditions of approval. The requested extension would extend the map until December 5, 2009.

TIME EXTENSION OF AN APPROVED MAP:

On July 15, 2008, Governor Schwarzenegger signed into law Senate Bill 1185 which amended the Subdivision Map Act provisions pertaining to the life of tentative subdivision maps. The amendments extend the life of certain approved tentative maps by one year and increases the total period by which discretionary extensions may be granted from five years to six years. The provisions of the recently amended Subdivision Map Act, as they pertain to this project, are described as follows:

As set forth in the Subdivision Map Act Sec. 66452.6(a)(1) of the State Government Code and Fremont Municipal Code Sec. 8-1409, tentative maps expire after two years if no final map is recorded. Tentative tract map applicants may subsequently request an extension of time beyond the two year period to process a final map. The Planning Commission may grant an extension or extensions of a tentative map. City policy has been to grant extensions one year at a time to give the City the opportunity to re-evaluate the map and the surrounding area conditions. Sec 66452.6(e) of the Subdivision Map Act allows discretionary extensions up to six years. In addition to discretionary extensions, Section 66452.21(a) automatically extends the tentative map expiration date by one year.

PROJECT ANALYSIS:

General Plan/Zoning Conformance:

The land use designation and zoning for the site, and the surrounding neighborhood, has not changed since the tentative map was approved. The proposed extension is supported by staff because the extension is consistent with the project analysis completed in December 2006 (see Informational Item #1).

Environmental Review:

A Mitigated Negative Declaration was previously prepared and circulated for the original project. As set forth in the project's Mitigation Monitoring Program of the adopted Mitigated Negative Declaration mitigation measures, which, if implemented, would reduce the identified impacts to non-significant levels. The project site and surrounding conditions have not changed, and thus no new environmental impacts were identified.

Applicable Fees:

The project will be subject to Citywide Development Impact Fees. These fees may include fees for fire protection, park facilities, park land in lieu, capital facilities and traffic impact. All applicable fees shall be calculated and paid at the fee rates in effect at the time of building permit issuance.

PUBLIC NOTICE AND COMMENT:

Public hearing notification is applicable. A total of 230 notices were mailed to owners and occupants of property within 300 feet of the site. The notices to owners and occupants were mailed on December 22, 2008. A Public Hearing Notice was published in The Tri-City Voice on December 24, 2008.

ENCLOSURES:

Exhibits:

Exhibit "A" December 5, 2006 Tentative Tract Map 7836

Informational:

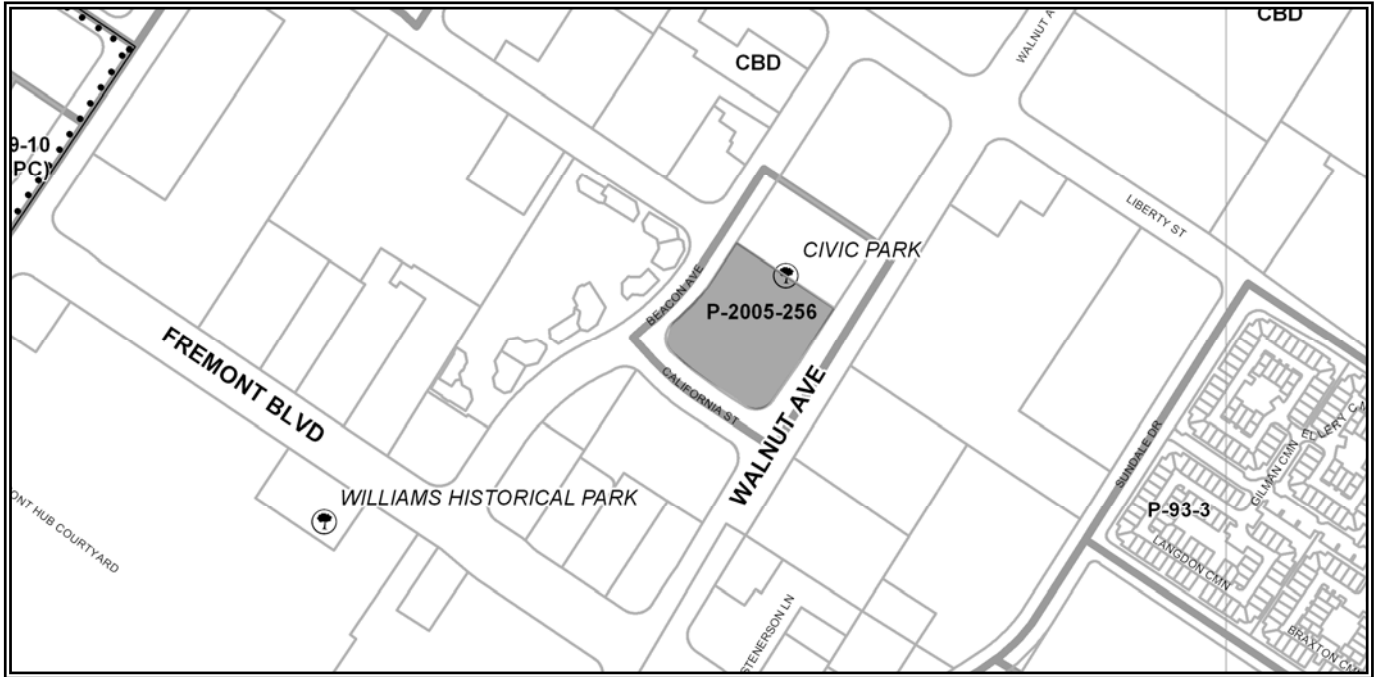
Informational 1 December 5, 2006 City Council Staff Report
Informational 2 December 5, 2006 VTM 7836 Findings and Conditions of Approval

RECOMMENDATION:

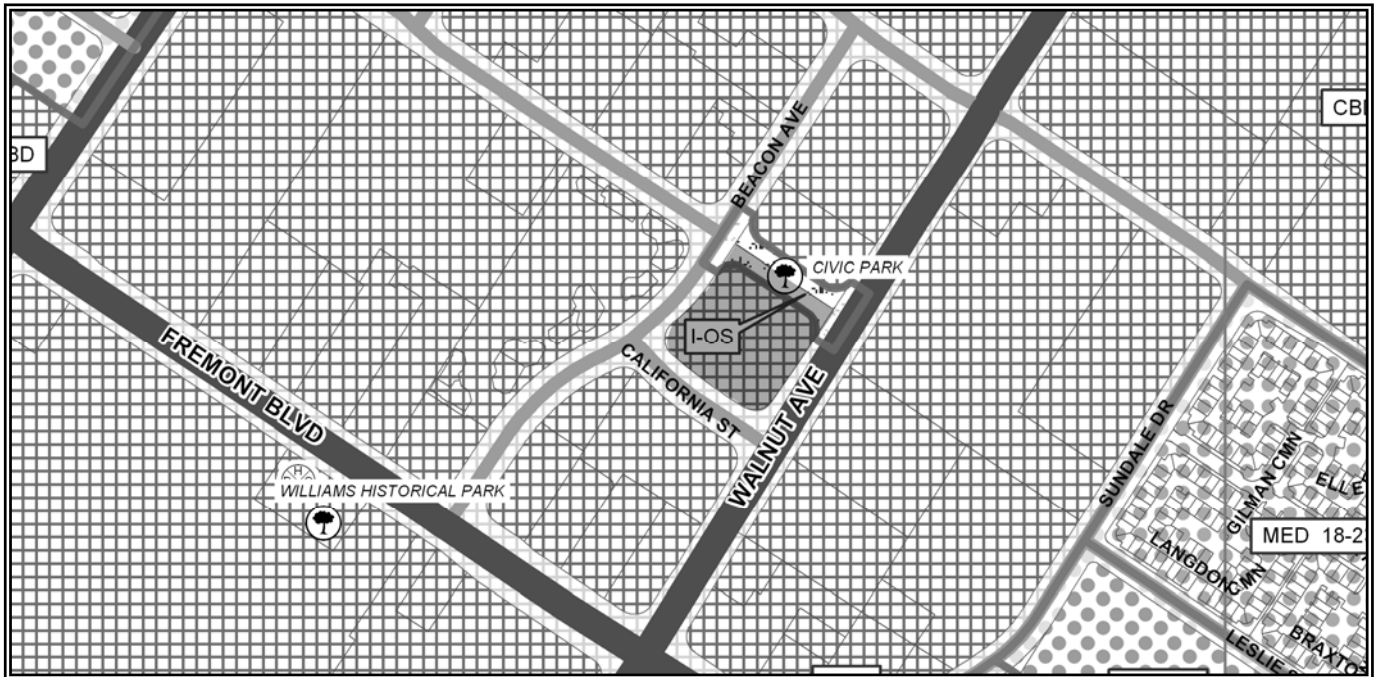
1. Hold public hearing.
2. Find the previously adopted Mitigated Negative Declaration for the Tentative Tract Map 7836 has evaluated the potential impacts that could cause an adverse effect and no additional environmental review is required. The proposed project is subject to the December 5, 2006 approved Mitigated Monitoring Program of the adopted Mitigated Negative Declaration and is consistent with the original findings.
3. Find PLN2009-00129 is in conformance with the relevant provisions contained in the City's existing General Plan. These provisions include the designations, goals and policies set forth in the General Plan's Land Use and Housing Chapters as enumerated within the original staff report (Informational Item #1).
4. Approve a one-year extension to December 5, 2009 of Tentative Tract Map 7836, as shown on Exhibit "A", subject to the project's original Conditions of Approval (Informational 1).

Existing Zoning

Shaded Area represents the Project Site



Existing General Plan



ACRONYMS

ABAG	Association of Bay Area Governments	HBA	Home Builders Association
ACCMA	Alameda County Congestion Management Agency	HRC	Human Relations Commission
ACE	Altamont Commuter Express	IS	Initial Study (CEQA)
ACFCD	Alameda County Flood Control District	JPA	Joint Powers Authority
ACTA	Alameda County Transportation Authority	Ldn/DNL	Day-Night Average Sound Level
ACTIA	Alameda County Transportation Improvement Authority	LLMD	Lighting and Landscaping Maintenance District
ACWD	Alameda County Water District	LOS	Level of Service
BAAQMD	Bay Area Air Quality Management District	MND	Mitigated Negative Declaration (CEQA)
BART	Bay Area Rapid Transit	MMRP	Mitigation Monitoring and Reporting Program (CEQA)
BCDC	Bay Conservation & Development Commission	MTC	Metropolitan Transportation Commission
BMPs	Best Management Practices	NEPA	National Environmental Policy Act
BMR	Below Market Rate	ND	Negative Declaration (CEQA)
CBD	Central Business District	NOC	Notice of Completion (CEQA)
CC&R's	Covenants, Conditions & Restrictions	NOD	Notice of Determination (CEQA)
CDBG	Community Development Block Grant	NOP	Notice of Preparation
CDD	Community Development Department	NPDES	National Pollutant Discharge Elimination System
CEQA	California Environmental Quality Act	PC	Planning Commission
CIP	Capital Improvement Program	PD	Planned District
CMA	Congestion Management Agency	PUC	Public Utilities Commission
COF	City of Fremont	PVAW	Private Vehicle Accessway
CUP	Conditional Use Permit	PWC	Public Works Contract
dB	Decibel	RDA	Redevelopment Agency
DEIR	Draft Environmental Impact Report (CEQA)	RFP	Request for Proposals
DO	Development Organization	RFQ	Request for Qualifications
DU/AC	Dwelling Units Per Acre	RHNA	Regional Housing Needs Allocation
EBRPD	East Bay Regional Park District	ROP	Regional Occupational Program
EDAB	Economic Development Alliance for Business (County)	ROW	Right of Way
EDAC	Economic Development Advisory Commission (City)	RTC	Response to Comments (CEQA)
EIA	Environmental Impact Analysis	RWQCB	Regional Water Quality Control Board
EIR	Environmental Impact Report (CEQA)	SPAA	Site Plan and Architectural Approval
EIS	Environmental Impact Statement (NEPA)	STIP	State Transportation Improvement Program
FAR	Floor Area Ratio	TCRDF	Tri-Cities Recycling and Disposal Facility
FEIR	Final Environmental Impact Report (CEQA)	T&O	Transportation and Operations Department
FEMA	Federal Emergency Management Agency	TOD	Transit Oriented Development
FFD	Fremont Fire Department	TS/MRF	Transfer Station/Materials Recovery Facility
FMC	Fremont Municipal Code	UBC	Uniform Building Code
FPD	Fremont Police Department	USD	Union Sanitary District
FUSD	Fremont Unified School District	VTa	Santa Clara Valley Transportation Authority
GIS	Geographic Information System	WMA	Waste Management Authority
GPA	General Plan Amendment	ZA	Zoning Administrator
HARB	Historical Architectural Review Board	ZAP	Zoning Administrator Permit
		ZTA	Zoning Text Amendment

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2009 PLANNING COMMISSION MEETINGS

Date	Meeting Type
1/08	Planning Commission Meeting
1/15	Long Range/General Plan Meeting for Planning Commission
1/22	Planning Commission Meeting
2/12	Planning Commission Meeting
2/19	Long Range/General Plan Meeting for Planning Commission
2/26	Planning Commission Meeting
3/12	Planning Commission Meeting
3/19	Long Range/General Plan Meeting for Planning Commission
3/26	Planning Commission Meeting
4/9	Planning Commission Meeting
4/16	Long Range/General Plan Meeting for Planning Commission
4/23	Planning Commission Meeting
5/14	Planning Commission Meeting
5/21	Long Range/General Plan Meeting for Planning Commission
5/28	Planning Commission Meeting
6/11	Planning Commission Meeting
6/18	Long Range/General Plan Meeting for Planning Commission
6/25	Planning Commission Meeting
7/9	Planning Commission Meeting
7/16	Long Range/General Plan Meeting for Planning Commission
7/23	Planning Commission Meeting
8/27	Planning Commission Meeting
9/10	Planning Commission Meeting
9/17	Long Range/General Plan Meeting for Planning Commission
9/24	Planning Commission Meeting
10/8	Planning Commission Meeting
10/15	Long Range/General Plan Meeting for Planning Commission
10/22	Planning Commission Meeting
11/12	Planning Commission Meeting
11/19	Long Range/General Plan Meeting for Planning Commission
12/10	Planning Commission Meeting
12/17	Long Range/General Plan Meeting for Planning Commission